

EXHIBIT 4

UNITED STATES DISTRICT COURT
STATE OF MINNESOTA

Case No. 18-cv-2301 (JRT/KMM)

David W. Lynas, as Trustee for the
next-of-kin of James C. Lynas,

Plaintiff,

vs.

Linda S. Stang, et al.,

Defendants.

VIDEO DEPOSITION TRANSCRIPT OF
SHERBURNE COUNTY SHERIFF JOEL L. BROTT

May 24, 2019
9:11 a.m.

at the

Sherburne County Jail
13880 Business Center Drive Northwest
Elk River, MN 55330

Court Reporter: Janet D. Winberg, RPR

Videographer: Pat Curto for Envision Video

<p style="text-align: right;">2</p> <p>1 APPEARANCES: 2 On Behalf of Plaintiff David W. Lynas: 3 Robert Bennett, Attorney at Law 4 Kathryn H. Bennett, Attorney at Law 5 Gaskins, Bennett & Birrell, L.L.P. 6 333 South Seventh Street 7 Suite 3000 8 Minneapolis, MN 55402 9 rbennett@gaskinsbennett.com 10 kbennett@gaskinsbennett.com 11 12 On Behalf of the Sherburne County Defendants: 13 Jason M. Hiveley, Attorney at Law 14 Iverson Reuvers Condon 15 9321 Ensign Avenue South 16 Bloomington, MN 55438 17 jasonh@irc-law.com 18 19 On Behalf of the ME nD Defendants: 20 Carolin J. Nearing, Attorney at Law 21 Larson King, LLP 22 30 East Seventh Street 23 Suite 2800 24 St. Paul, MN 55101 25 cnearing@larsonking.com</p> <p>NOTE: Original transcript will be delivered to the noticing party, Gaskins, Bennett & Birrell, L.L.P.</p> <p>NOTE: Exhibits 1-8 were marked.</p>	<p style="text-align: right;">4</p> <p>1 Plaintiff. 2 MS. NEARING: Carrie Nearing, for the 3 ME nD Defendants. 4 MR. HIVELEY: Jason Hiveley, for the 5 Sherburne County Defendants. 6 VIDEOGRAPHER: Thank you. 7 Sheriff, you may remain seated, and the 8 court reporter will swear you in. 9 * * * 10 (Witness sworn.) 11 JOEL L. BROTT, 12 called as a witness, being first duly sworn, 13 was examined and testified as follows: 14 * * * 15 EXAMINATION 16 BY MR. BENNETT: 17 Q. Sheriff, would you state your full name for the 18 record, please. 19 A. Joel Louis Brott. 20 Q. How old are you, sir? 21 A. Forty-seven. 22 Q. And can you describe briefly your educational 23 background, please. 24 A. You bet. I graduated from St. Cloud Apollo High 25 School. Attended Alexandria Technical College;</p>
<p style="text-align: right;">3</p> <p>1 PROCEEDINGS 2 (Exhibits 1 & 2 marked.) 3 VIDEOGRAPHER: This is the video 4 deposition of Sheriff Joel Brott, taken by the 5 Plaintiff in the matter of "Lynas versus Stang, 6 et al." United States District Court, District 7 of Minnesota, Civil No. 8-2301. 8 We are located at the Sherburne County Jail, 9 13880 Business Center Drive, Elk River, 10 Minnesota. 11 Today's date is May 24, 2019. The time is 12 9:12 a.m. 13 The court reporter is Janet Winberg, from 14 the firm of Doby Professional Reporters. 15 My name is Pat Curto. I'm a certified legal 16 video specialist in association with Envision 17 Video. 18 Would counsel please state their appearances 19 for the record. 20 MR. BENNETT: Robert Bennett, for the 21 Plaintiff. 22 And I just -- either I heard the case number 23 wrong, but it's zero -- it's 018-CV-2301. 24 VIDEOGRAPHER: Thank you. 25 MS. BENNETT: Kathryn Bennett, for the</p>	<p style="text-align: right;">5</p> <p>1 received an associate of applied science degree 2 in law enforcement. Attended the FBI National 3 Academy in 2007. 4 Q. Okay. So you have a two-year degree? 5 A. I do. 6 Q. Okay. And the only other postgraduate work is 7 with the FBI National Academy? 8 A. That's true. 9 Q. How long is that? 10 A. A ten-week program. 11 Q. Do you get a certificate for that? 12 A. Correct. 13 Q. And can you describe your work history after 14 your -- you get your law enforcement degree? 15 A. Sure. I started my law enforcement career in a 16 small community, Minneota, Minnesota. I spent 17 about a year and a half to two years there. I 18 started out as a police officer. And after 19 about a year, the chief there left, and the city 20 council thought it was a good idea to make me 21 the chief of police for about a year. Being 22 that it was a small community, I wanted 23 something a little bit larger. 24 I went to the City of Redwood Falls as a 25 police officer. I spent, I don't know, a year</p>

<p style="text-align: right;">6</p> <p>1 and a half, two years there, before coming to 2 Sherburne County in -- it would probably be -- I 3 think it was the fall of 1996 or so. 4 So I've been in Sherburne County for over 20 5 years. I started here as a patrol deputy. I 6 kind of worked my way around the department. 7 School liaison officer. Some time on the 8 emergency response unit. Got promoted to 9 investigator, promoted to investigative 10 sergeant, promoted to investigative captain. 11 Later, appointed by the board of commissioners 12 in 2009 as sheriff. Won my first election in 13 2010, '14 and '18. 14 Q. And the only thing I, at least, noticed kind of 15 missing from the sheriff's department résumé, is 16 you didn't do anything in corrections. You 17 didn't do any stint in the jail? 18 A. Correct. No, I never was a correctional 19 officer. 20 Q. Part of your job is to supervise correctional 21 officers, though, as sheriff; is that true? 22 A. Yeah. The sheriff, by statute, is responsible 23 for the county jail, correct. Yeah, uh-huh. 24 Q. Okay. And describe the -- the command and 25 control assignments under you; in other words,</p>	<p style="text-align: right;">8</p> <p>1 remains your duty as sheriff? 2 MR. HIVELEY: I'll object. Calls for a 3 legal conclusion. 4 Go ahead and answer, if you know. 5 BY MR. BENNETT: 6 Q. If you don't -- if that's your understanding, 7 let me know. If it isn't, let me know. 8 A. We have a shared responsibility, I think, with 9 -- with our partners that -- within the jail 10 facility. 11 Q. And who are your partners within the jail 12 facility? 13 A. Currently our -- our contracted partner is MEnD 14 Correctional Care. 15 Q. Okay. And you're familiar with the term 16 "well-being check"? 17 A. I am, yes. 18 Q. What is the ultimate purpose of a well-being 19 check? 20 A. For correctional officers to -- when they're 21 doing them, whether it's a 15-minute well-being 22 check or a 30-minute well-being check, is for 23 them to look for indications that person is 24 okay, that they're doing well. 25 Q. All right. They be alive?</p>
<p style="text-align: right;">7</p> <p>1 your org chart, for the jail part of it. 2 A. You bet. And so, kind of, our organizational 3 structure, it -- as it flows downward, the chief 4 deputy is also very involved in jail operations. 5 Q. And who is that? 6 A. Don Starry. 7 Q. Okay. 8 A. We have jail commander, Patrick Carr. Jail 9 administrator, Brian Frank. Assistant jail 10 administrator, Dave Isais. Two captains: Tom 11 Zerwas, Chris Bloom. And then part of the 12 administration would be Mark Fritel, who is in 13 charge of programs. And then I think we have 13 14 sergeants that are day-to-day operations inside 15 of the jail. 16 Q. Uh-huh. The -- you understand as sheriff, that 17 the inmates in the jail have a constitutional 18 right to adequate health care? 19 A. Correct. 20 Q. And that's a function that is -- or excuse me, 21 is a duty that is the county's duty? 22 A. It's our responsibility to make sure that they 23 get those services. 24 Q. And you can't -- do you understand, you cannot 25 delegate that duty to a third party, that that</p>	<p style="text-align: right;">9</p> <p>1 A. Correct. 2 Q. Breathing? 3 A. Correct. 4 Q. And in certain circumstances, able to follow 5 commands and instructions? 6 A. Yes. 7 Q. You also have counts; correct? 8 A. Like head counts? 9 Q. Yes. 10 A. Yes. 11 Q. How often do they occur, do you know? 12 A. Um, I can't give you the exact time. I think 13 generally at shift change they do head counts. 14 Q. What's your understanding of the term "special 15 housing"? 16 A. Special housing is for inmates that need 17 different type of detention, whether it's for 18 poor behavior, max segregation. Whether it's 19 for medical segregation; so, like, TB might be 20 an example. Administrative segregation; so, 21 like, protective custody, where an inmate 22 perhaps feels threatened based on what they've 23 been charged with. We see it oftentimes with 24 individuals that are charged with sex crimes. 25 And so there's a different variety of reasons</p>

<p style="text-align: right;">10</p> <p>1 that an inmate would be put in segregation.</p> <p>2 Q. Included in there, and among the reasons, would</p> <p>3 be persons who were at an elevated suicide risk;</p> <p>4 correct?</p> <p>5 A. Not in our Special Housing Unit. Those</p> <p>6 individuals should be in our booking area.</p> <p>7 Q. They should be -- so if you're on suicide watch,</p> <p>8 you're actually kept not in special housing?</p> <p>9 A. You should be in booking.</p> <p>10 Q. Okay. And what would -- what would be -- what</p> <p>11 would that entail in booking, what sort of</p> <p>12 observation?</p> <p>13 A. Right. And so somebody that -- we don't -- we</p> <p>14 don't call it "suicide watch," but I understand</p> <p>15 that purpose of it. They'd be put in a Kevlar</p> <p>16 gown. They would be put in a cell that is</p> <p>17 camera'd, monitored. There's a feed that goes</p> <p>18 in our sergeant's office, there's a feed that</p> <p>19 goes in our master control. And we would get a</p> <p>20 -- what we would call a "Special Precautions</p> <p>21 Form," that -- from a mental health provider,</p> <p>22 medical provider, indicating things that they</p> <p>23 shouldn't have, such as clothing, such as</p> <p>24 blankets, such as toilet paper. There's a host</p> <p>25 of things on --</p>	<p style="text-align: right;">12</p> <p>1 A. No, they're not. The dayroom is camera'd.</p> <p>2 Where the, kind of, outside area is camera'd.</p> <p>3 Q. Well, you can -- for example, what -- what cell</p> <p>4 was James Lynas in?</p> <p>5 A. S52, I believe.</p> <p>6 Q. And you can -- the cameras will show, for</p> <p>7 example, the inmate in the -- in the -- in S52</p> <p>8 in the bunk?</p> <p>9 A. I don't believe that's the case, no.</p> <p>10 Q. You don't think that's true?</p> <p>11 A. No.</p> <p>12 Q. The cameras will record when well-being checks</p> <p>13 are made in that area, the -- the non-catwalk</p> <p>14 area, the main area of the entrance?</p> <p>15 A. Right. So when we were back to these -- you</p> <p>16 know, the series of cells, and then there's this</p> <p>17 kind of small dayroom, and that area does have a</p> <p>18 camera in it, and so that's the area that the</p> <p>19 housing officer -- you saw the -- kind of that</p> <p>20 desk in the hallway, that they can view that</p> <p>21 camera'd area from that location.</p> <p>22 Q. Who -- where does the camera feed go?</p> <p>23 A. The camera feed would go to the special housing</p> <p>24 officer desk, in that hallway. There's also a</p> <p>25 camera feed, it would be in master control, that</p>
<p style="text-align: right;">11</p> <p>1 Q. Razors?</p> <p>2 A. -- there.</p> <p>3 Anybody on a special -- or a 15-minute</p> <p>4 watch, regardless of where they are located in</p> <p>5 the facility, razors are always eliminated,</p> <p>6 regardless of the reason why they're on that</p> <p>7 watch.</p> <p>8 Q. Okay. And special housing also has 15-minute</p> <p>9 watch criteria as well for various inmates;</p> <p>10 correct?</p> <p>11 A. For sure.</p> <p>12 Q. And in this case, David Lynas was under a</p> <p>13 15-minute watch criteria?</p> <p>14 A. He was.</p> <p>15 MS. BENNETT: James.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. James. David is the father. I apologize.</p> <p>18 The -- now, we were just back in special</p> <p>19 housing. Have you been back there recently?</p> <p>20 When was the last time you were back there,</p> <p>21 other than ten minutes ago?</p> <p>22 A. Right. It's probably been a few months.</p> <p>23 Q. Okay.</p> <p>24 A. Yep.</p> <p>25 Q. Now, the -- those cells are camera'd?</p>	<p style="text-align: right;">13</p> <p>1 -- and then is recorded.</p> <p>2 Q. So there's -- is it monitored as well as</p> <p>3 recorded?</p> <p>4 A. It's -- it's monitored to the extent that the --</p> <p>5 that the feed is up, yes, and the officers have</p> <p>6 the ability to -- to monitor it from the housing</p> <p>7 desk.</p> <p>8 Q. In other words, it can be seen on the screen?</p> <p>9 That's what I'm hearing.</p> <p>10 A. Yes, sir. Yes.</p> <p>11 Q. Whether they're looking at it all day, every</p> <p>12 day, is a different matter?</p> <p>13 A. Yes, sir. They have the ability to do that.</p> <p>14 Q. Okay. And the purpose of having that screen</p> <p>15 there, is so that a second set of eyes is on</p> <p>16 that, at least available to be on that, on that</p> <p>17 screen?</p> <p>18 A. For those -- for those dayrooms, correct.</p> <p>19 Q. Okay. Now, the catwalk area, what is the main</p> <p>20 purpose of that area?</p> <p>21 A. So that is to do watch tours, and to look inside</p> <p>22 of those individual cells when -- when the</p> <p>23 dayroom may not be available. And so the</p> <p>24 housing officer will do, you know, the --</p> <p>25 Q. Can I ask you -- I don't mean -- when you say,</p>

<p style="text-align: right;">14</p> <p>1 "when the dayroom may not be available," what do 2 you mean by that? 3 A. Yep. And so if somebody is getting -- get their 4 hour out -- so, you know, so certain inmates, 5 they get time out of that cell, and so if 6 there's an inmate in that dayroom area, that 7 inmate is potentially in special housing for bad 8 behavior and potentially could be assaultive 9 towards staff, and so they wouldn't go in that 10 dayroom area with that inmate. They'd use an 11 alternative way to do the watch tour, which 12 would be the catwalk. 13 Q. Okay. 14 A. So there's two -- two ways to do the watch tour. 15 Q. So the person we heard in the cell, it wasn't 16 the cell where James Lynas was. But if the 17 person we heard, who seemed a little agitated 18 and a little upset with the administration, was 19 out in the dayroom, you wouldn't enter that -- 20 the correctional officers wouldn't enter that 21 while that person had their hour out? 22 A. Right. 23 Q. Okay. 24 A. Yes. 25 Q. Okay. And it might depend on who was in -- in</p>	<p style="text-align: right;">16</p> <p>1 the event, but not since then. 2 Q. But you'd agree with me, that there was nobody 3 in their hour out, in the dayroom, during that 4 period? 5 A. Um, I don't know that I can answer that. 6 Q. Okay. If we watched that entire thing, and 7 there wasn't anybody in the -- just assume that 8 there's no person -- that the video is meant to 9 capture people in that -- in the day area for 10 certain; correct? 11 A. Correct. 12 Q. And it captures some other things? 13 A. Uh-huh. 14 Q. But -- 15 (Sotto voce discussion between 16 Mr. Bennett and Ms. Bennett.) 17 BY MR. BENNETT: 18 Q. Do you have the authority to limit the hours out 19 for the inmates? 20 A. You mean decide when they do them? 21 Q. Uh-huh. 22 A. Yes, of course administration would have the 23 ability to -- to decide when those hours out 24 occur. 25 Q. If you needed for a safety check or well-being</p>
<p style="text-align: right;">15</p> <p>1 those rooms, about whether they entered in the 2 hour out or not? 3 A. No. 4 Q. Or is there just straight protocol? 5 A. Just straight protocol. 6 Q. Okay. 7 A. Yep. 8 Q. The observation qualities of the catwalk are 9 limited; correct? 10 A. It is the oldest part of our facility. I would 11 agree with you, that they are limited. 12 Q. And you cannot see all of the interior of the 13 cell through the one-way glass? It's a mirror 14 on the other side; correct? 15 A. Correct. It's more difficult to see it, the 16 wall that you're actually going -- looking 17 through; right? 18 Q. Uh-huh. 19 A. Closest to you. Yep. 20 Q. And have you reviewed the video of the period, 21 say the hour before and the hour after -- or the 22 hour before James Lynas was discovered? 23 A. Um, I don't know that I reviewed an entire hour. 24 Q. Okay. Thirty minutes? Forty minutes? 25 A. Yes. Back -- back, like the day or two after</p>	<p style="text-align: right;">17</p> <p>1 check, you can order that person back into their 2 cell; correct? 3 A. Sure. You could order them to lockdown. 4 Q. All right. 5 A. Yep. 6 Q. All right. 7 (Sotto voce discussion between 8 Mr. Bennett and Ms. Bennett.) 9 BY MR. BENNETT: 10 Q. In the dayroom is -- is there ability to 11 separate, make it essentially two dayrooms? 12 Shut the one door? In other words, limit the 13 size of the dayroom? 14 A. Well, we were just back there. I'm not sure how 15 we would do that. 16 Q. Isn't there a second -- isn't there a door 17 opposite S2 [sic] on the -- if you -- if you 18 stood in the -- in the doorway of S2, to your 19 right in back, isn't there another door that -- 20 that forms -- forms an entry into another 21 dayroom area? 22 A. I'm having a hard time visualizing what you're 23 speaking of, but... 24 Q. Well -- 25 MR. BENNETT: Should we mark this one?</p>

<p style="text-align: right;">18</p> <p>1 (Sotto voce discussion between 2 Mr. Bennett and Ms. Bennett.) 3 MR. BENNETT: Yeah, that's it. 4 Would you mark this? 5 (Exhibit 3 marked.) 6 BY MR. BENNETT: 7 Q. Showing you what's been marked as Exhibit 3, do 8 you see another door? 9 A. Yes, sir. 10 Q. What does that -- that door enter into? 11 A. Well, it's -- it's a dayroom area. What it 12 doesn't show and -- and what I hesitate to say 13 is, I don't know if there's cells on the other 14 side of this -- 15 Q. That's -- 16 A. -- as well. 17 Q. That's the cell -- 18 A. I understand. But I don't know if there's 19 additional cells in this -- in this additional 20 area. 21 Q. Well, there were -- as we walked down the 22 catwalk, there were additional places to look to 23 the right? 24 A. Right. It's just that the photograph doesn't 25 depict that; right?</p>	<p style="text-align: right;">20</p> <p>1 picture, but... 2 (Exhibit 4 marked.) 3 BY MR. BENNETT: 4 Q. Exhibit 4 shows the picture of the catwalk? 5 A. Yes, sir. 6 Q. And it shows cell observation areas down the 7 length of the hallway of that catwalk? 8 A. Correct. 9 Q. All right. 10 A. Yeah. 11 Q. Okay. What did you understand James Lynas' 12 status to be on the date that he died, housing 13 status? 14 A. Of his watch status? 15 Q. First of all, housing status. 16 A. How did he die? 17 Q. On the day that he died. 18 A. He hung himself. 19 Q. I know that. 20 A. Oh. 21 Q. What was his housing status? What was his 22 housing category? 23 A. So he was put back in special housing for a 24 behavioral issue. 25 Q. Okay.</p>
<p style="text-align: right;">19</p> <p>1 Q. Okay. 2 A. I don't want to say something that's inaccurate. 3 Q. Okay. But as you -- that catwalk has 4 observation, cell observation places, and I 5 don't know the direction -- 6 A. Keep going down, right. Yep. 7 Q. -- that -- that extend down the hallway -- 8 A. Yep. 9 Q. -- of the catwalk? 10 A. Yep. And so there could be somebody in the hour 11 out here, and there could be somebody in an hour 12 out here -- 13 Q. Okay. 14 A. -- in the two locations. You can see the camera 15 here, up in the corner -- 16 Q. Yep. 17 A. -- is kind of what I was referring to earlier. 18 Q. There's cameras in both dayroom sections? 19 A. Correct. 20 Q. All right. And they can be separated, is what I 21 was trying to get at. 22 A. Yes, sir. 23 Q. Okay. 24 A. Yeah. 25 Q. And let's -- it's not the world's greatest</p>	<p style="text-align: right;">21</p> <p>1 A. And so he was on a 15-minute watch that was put 2 on by the MEnD nurse. 3 Q. Okay. What was your first experience with Todd 4 Leonard? 5 A. Um, you mean -- well, he was employed here as 6 the medical provider when I became the sheriff. 7 Q. At the time of, or before you became the 8 sheriff? 9 A. Long before I became the sheriff. 10 Q. Okay. 11 A. Yep. 12 Q. So you, sort of, inherited him as a medical 13 provider? 14 A. True. Yes. 15 Q. How much interaction -- and when -- when you 16 first became sheriff, it was 2009? 17 A. January of '09, yes. 18 Q. And what sort of interaction did you have with 19 him from '09 to -- through the first term of 20 your being sheriff? Or first elected term? 21 Let's just use that for... 22 A. Uh-huh. Professional relationship here at the 23 jail. I would communicate occasionally with 24 him. 25 Q. How often was he here, to your knowledge?</p>

<p style="text-align: right;">22</p> <p>1 A. I'd have to look at what the contract called 2 for. I don't know how many hours a week he was 3 supposed to be here at that time. 4 Q. Okay. 5 A. I don't remember. 6 Q. And is -- is he someone that you know only in 7 the professional context? 8 A. Correct, yeah. 9 Q. You've never done anything socially with him? 10 A. I've been out to dinner one time with him, years 11 ago. 12 Q. Okay. 13 A. Yeah. 14 Q. Before he was -- before your being sheriff here? 15 I mean, how many -- 16 A. No, no. 17 Q. Some time after -- 18 A. Yes. 19 Q. -- you were appointed sheriff? 20 A. Yes. 21 Q. Any other -- any other social interactions with 22 him? Professional sports games? 23 A. No. 24 Q. Parties? Anything like that? 25 A. No.</p>	<p style="text-align: right;">24</p> <p>1 starting to evolve, that -- where he was getting 2 other contracts, and where he was -- his own 3 staff, all the clinic staff were under his 4 umbrella, where we were a little bit different 5 at that time. 6 Q. How so? 7 A. We had our -- all the staff in our clinic, 8 whether it was RNs, med techs, those types of 9 positions were county employees at that time. 10 Q. And then by "at that time," you mean when? 11 Until when? 12 A. Until when? Well, we hired -- after Dr. Leonard 13 had decided to leave, we hired Advanced 14 Correctional Health, ACH, and we had them for 15 about a year, and we discovered that we were not 16 getting the service that we had hoped to get 17 from them. 18 Q. How did you discover that? 19 A. Through some auditing. That the inmates weren't 20 receiving timely access to medical care, timely 21 access to mental health care, and -- and I fired 22 them. It happened pretty quickly. I had made a 23 phone call to Dr. Leonard and asked him to come 24 back as the medical provider. Correctional 25 clinic staff are very difficult positions to</p>
<p style="text-align: right;">23</p> <p>1 Q. So he's not -- he's not a friend of yours? 2 A. No, he's -- I call him a friend, but he's an 3 acquaintance. He's a professional acquaintance. 4 Q. Okay. You have not been to his house, he's not 5 been to your house? 6 A. No, he has not. 7 Q. Okay. And did he provide medical services, 8 either personally or through his company MEnD, 9 from the time you were sheriff through the 10 present date? Or was there some interruption? 11 A. There was some interruption. So from -- from 12 whenever he started, until about 2000 -- I'm 13 going to say '14 -- '13 or '14, he was with us. 14 And then he -- he decided that -- at least the 15 reason that he gave me, was just personal 16 reasons. I don't know that he expounded any 17 more, that he decided that he was going to leave 18 Sherburne County. And -- and so he gave his 19 notice, and we hired another company. 20 Q. He was still at MEnD -- he was at MEnD at that 21 time? 22 A. Um, I don't know if MEnD was created at that 23 time. I think he was in the process of that 24 being established. Let me back up. I think -- 25 I think about the time he left, that was</p>	<p style="text-align: right;">25</p> <p>1 find and hire. He was somebody that was known 2 to me, and so I'd asked him to come back, and he 3 did. 4 Q. Did -- did you do any sort of due diligence on 5 Dr. Leonard and -- and MEnD? 6 MR. HIVELEY: I'm going to object to the 7 form. 8 Go ahead and answer. 9 THE WITNESS: Do -- 10 MR. HIVELEY: You can answer. 11 THE WITNESS: Okay. 12 Well, all of -- all of the staff that we 13 have in the facility, we do background checks 14 on -- 15 MR. BENNETT: Okay. 16 THE WITNESS: -- whether they are our 17 employees or MEnD employees. 18 BY MR. BENNETT: 19 Q. And what does that constitute? 20 A. We do a criminal history check. 21 Q. So MNCIS? 22 A. Yes. 23 Q. And other databases for criminal activity? 24 A. There are. We look at -- you know, we ask them, 25 you know, where they might have had law</p>

<p style="text-align: right;">26</p> <p>1 enforcement contact. Where they've lived for 2 the previous five years. We would check with 3 those law enforcement agencies to see what kind 4 of law enforcement contact that they might have 5 had. We have -- we have assigned people that 6 just do background investigations, so we try to 7 be pretty thorough, whether it's a clinic staff, 8 our own staff, kitchen staff, so we kind of go 9 through that process.</p> <p>10 Q. Did you do that with Dr. Leonard?</p> <p>11 A. You know, I don't think that we ever did with 12 Dr. Leonard. I don't recall doing that with 13 Dr. Leonard.</p> <p>14 Q. Okay. Do you remember doing any sort of due 15 diligence on Dr. Leonard, at the time you --</p> <p>16 A. Not -- not when he came back. But I wasn't part 17 of the process when he initially received the 18 contract under Sheriff Anderson. I would assume 19 that there was, but I can't -- I can't speak to 20 it today.</p> <p>21 Q. Uh-huh. Did you discover anything -- any 22 discipline or -- or any problematic behavior in 23 the -- in his records with the Minnesota Board 24 of Medical Practice?</p> <p>25 A. Uh-huh. So that was during the time that I was</p>	<p style="text-align: right;">28</p> <p>1 Q. Okay. Did you determine what problems he had 2 evidenced with the Minnesota Board of Medical 3 Practice?</p> <p>4 A. So this is going back a long time. I think it 5 had to do with prescribing medication, is what 6 my -- what my memory tells me.</p> <p>7 Q. Uh-huh. Is that the only thing that was noted, 8 or do you remember anything else?</p> <p>9 A. I don't remember anything else.</p> <p>10 Q. Do you remember anything with regard to 11 recordkeeping? Medical documentation?</p> <p>12 A. Related to?</p> <p>13 Q. His -- any deficits in that area from 14 Dr. Leonard?</p> <p>15 A. In -- in -- in what regard, I guess? I'm not --</p> <p>16 Q. In relationship to his disciplinary history with 17 the Minnesota Board of Medical Practice?</p> <p>18 A. I'm not aware of that.</p> <p>19 Q. So your initial contract with MEnD was sort of a 20 stopgap contract? It related to --</p> <p>21 MR. BENNETT: And maybe we ought to mark 22 that.</p> <p>23 (To Ms. Bennett) Is that marked? And this 24 would go the other way.</p> <p>25 BY MR. BENNETT:</p>
<p style="text-align: right;">27</p> <p>1 the sheriff, that that information came to 2 light, I think it was in a Star & Tribune 3 article. I don't recall the year. You might be 4 able to refresh my memory. And I don't believe 5 it was during the time that he was employed 6 here. And I think he was employed after that 7 fact. I know that I talked to county 8 administration about that at the time, and which 9 was County Administrator Brian Benson at the 10 time. And I reached out to some other sheriffs 11 at the time; one that was a Stearns sheriff at 12 the time, asking if he had any questions or 13 concerns. We hadn't seen any concerns here with 14 Dr. Leonard. The other sheriff verified they 15 hadn't had other concerns -- they didn't have 16 other concerns either, so we decided to maintain 17 his employment here, but we did -- we did look 18 at it and talk about it.</p> <p>19 Q. Uh-huh. Did you look at the docket in the 20 United States District Court for the District of 21 Minnesota --</p> <p>22 A. No.</p> <p>23 Q. -- with regard to lawsuits regarding him and/or 24 MEnD?</p> <p>25 A. No, sir, I haven't.</p>	<p style="text-align: right;">29</p> <p>1 Q. It related to the legitimacy of need after 2 firing ACH?</p> <p>3 A. Right.</p> <p>4 (Exhibit 5 marked.)</p> <p>5 BY MR. BENNETT:</p> <p>6 Q. Now, Exhibit 5 is a -- do you recognize that?</p> <p>7 A. I do, yes.</p> <p>8 MR. BENNETT: (To Ms. Bennett) Can you 9 give me that folder?</p> <p>10 MS. BENNETT: (Passing folder.)</p> <p>11 BY MR. BENNETT:</p> <p>12 Q. That's the April 21, '14 contract?</p> <p>13 A. This is April -- oh, let me see here. This -- 14 the first part is the April 17th. The second, 15 the amendment, is the 21st.</p> <p>16 Q. Okay. And the amendment is in writing and 17 signed by both parties in accordance with the 18 contractual terms; correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Who drafted the -- the initial agreement?</p> <p>21 A. It would have been our general counsel for the 22 sheriff's office, Greg Wiley.</p> <p>23 Q. Is he a county employee, Mr. Wiley?</p> <p>24 A. He was at the time.</p> <p>25 Q. Okay. Is he a county employee now?</p>

<p style="text-align: right;">30</p> <p>1 A. He's a contracted employee. He's -- he used to 2 be full time for the sheriff's office. Now he's 3 half sheriff's office, half county 4 administration, so there's two separate contacts 5 -- contracts with him right now. 6 Q. Okay. But he is not under the county attorney, 7 per se? 8 A. No, he's not. No. 9 Q. He's under your jurisdiction? 10 A. Correct. Yes. 11 Q. And his contract now separates into two phases, 12 and they are both under your jurisdiction? 13 A. No, sir. 14 Q. Okay. I'm misunderstanding then. I apologize. 15 A. I probably didn't explain it well. 16 So right now he falls under our 17 jurisdiction, you know, when we're dealing with 18 contracts, when we're dealing with labor issues. 19 He -- the contract with the county 20 administration is -- I can speak in general 21 terms -- 22 Q. Okay. 23 A. -- I don't know what all he does for them, but a 24 lot of it has to do with labor negotiations. 25 But we still all fall underneath the umbrella of</p>	<p style="text-align: right;">32</p> <p>1 qualifications. 2 Q. And you don't know who that was? 3 A. I don't remember the name of the person, no, 4 sir. 5 Q. And then it says (as read), "MEnd will refer 6 inmate/detainees to on-site crisis intervention 7 services when indicated"; correct? 8 A. That's what the language says, yes. 9 Q. What is "on-site crisis intervention," as far as 10 you know? 11 A. Well, at that time we -- we still employed our 12 own staff in the clinic, and so they would make 13 those referrals out to -- to the community and 14 to the medical provider at times. 15 Q. And what were their qualifications from -- what 16 sort of crisis -- well, what were their 17 qualifications? 18 A. Sure. So they're RNs. 19 Q. All right. 20 A. Uh-huh. 21 Q. Any of them have any specialization in mental 22 health? 23 A. I can't speak to that. I wouldn't know that 24 back then. 25 Q. "On-site crises." What kind of crises are you</p>
<p style="text-align: right;">31</p> <p>1 the county attorney and coordinate and 2 collaborate closely with her, and generally they 3 review all the contracts as well that we -- that 4 we sign -- 5 Q. All right. 6 A. -- if that makes sense. 7 Q. Now, in the -- what number exhibit -- what 8 exhibit number is that? 9 A. Number 5 here. 10 Q. Exhibit 5, if you turn to page 3, 11 paragraph 1.11, it says (as read), "MEnd will 12 supply an on-site mental health specialist 13 (non-prescribing) for inmate/detainee care for 14 three days a week, who can perform on-site 15 mental health assessments." Who was that, that 16 he provided -- 17 A. Um -- 18 Q. -- during that period? 19 A. I don't -- I don't recall the name of the 20 individual that was here back then. 21 Q. Do you know their qualifications? 22 A. "Mental health specialist" is, I think, the term 23 that we used in the contract -- 24 Q. And -- 25 A. -- but I wouldn't know their specific</p>	<p style="text-align: right;">33</p> <p>1 talking about? Mental health? Physical health? 2 Both? 3 A. Right. So they would deal with -- they would 4 deal with issues that are inmate issues, and 5 they would -- they would take care of what 6 needed to be taken care of, and provide the care 7 that needed to -- to happen, and then refer them 8 out if -- if they couldn't handle that in our 9 clinic setting. 10 Q. Well, what constituted a, quote, "crisis," end 11 quote? 12 A. Well, I -- I would think somebody that was 13 suffering from a medical condition. Let's say, 14 chest pains would be, perhaps, a crisis. 15 Q. Okay. 16 A. And they would refer them out then to, you know, 17 the hospital. And they would -- they have a 18 higher level of training than our correctional 19 officers and a better way of triaging those 20 things and making determinations where they 21 should go. 22 Q. Did "crisis" also include mental health crisis? 23 A. For sure. 24 Q. It says there the (as read), "MEnd's medical 25 team will coordinate with the mental health and</p>

<p>34</p> <p>1 substance abuse services in the facility." 2 A. Uh-huh. 3 Q. What was the -- what did the facility provide in 4 terms of mental health and substance abuse 5 services? 6 A. Um, I'm trying to think of the name of the 7 substance abuse services that we had at the 8 time. 9 Q. How about mental health, too? 10 A. Well, under this contract, we had the mental 11 health specialist come in. And then we had a 12 contract -- I think it was still in place at 13 this time, I'd have to double-check, with 14 Central Minnesota Mental Health Center; we did 15 for years. But that's what it would mean to me. 16 Q. Nowhere in this contract is Central -- say it 17 again. 18 A. Central Minnesota Mental Health Center. 19 Q. Yeah, they're not mentioned in this contract? 20 A. They are not, no, sir. 21 Q. The word "Constitution" or "constitutional" 22 isn't mentioned in this contract either, is it? 23 A. I don't think so. 24 Q. Okay. It says that they will (as read), "Use an 25 integrated and multidisciplinary team to develop</p>	<p>36</p> <p>1 have a high percentage of people, 2 inmates/detainees, with severe and persistent 3 mental illness? 4 A. I would agree with you, that mental health in 5 correctional facilities is an issue for -- for 6 all jails, yes, sir. 7 Q. And then, unfortunately, in the last decade 8 we've had -- in addition to the mental health 9 aspect of the inmate/detainee population, you 10 have a situation where many of the 11 inmates/detainees arrive at your facility in a 12 -- in a condition either ripe for or evidencing 13 opioid withdrawal behavior? 14 A. That's true, they do come to us like that. 15 Q. And those inmates are at particular risk for 16 self-harm, aren't they? 17 A. I don't know that I -- I'm not a mental health 18 specialist. I don't know that I could answer 19 that. 20 Q. Well, isn't that generally regarded as such in 21 the correctional community? 22 A. That somebody that's withdrawing from opioids is 23 at a higher risk of suicide? 24 Q. Uh-huh. 25 A. I can't answer that. I haven't seen any data to</p>
<p>35</p> <p>1 treatment plans for inmates and detainees 2 displaying manipulative behavior." What did 3 that mean? 4 A. Well, it would be coordination between clinic 5 staff, which happened to be county staff at that 6 time; and our medical provider. And to me, it 7 means that they -- they come up with a treatment 8 plan of sorts. 9 Q. "For inmates/detainees displaying manipulative 10 behavior." I don't understand what that means. 11 Are you talking about sick inmates, or inmates 12 who are just manipulative? Or -- those are 13 different categories, it seems to me, aren't 14 they? 15 A. We oftentimes have inmates that, I guess, 16 display manipulative behavior, whether it's, you 17 know, to -- to get out of the jail for the day, 18 to go to the hospital, to go to the clinic, a 19 change of scenery. And we see all kinds of 20 things within a correctional facility. 21 Q. But you've been a sheriff for about a decade 22 now, correct, or a little more than a decade; 23 right? 24 A. Correct. 25 Q. And you'd agree with me, that the jails are --</p>	<p>37</p> <p>1 support that. 2 Q. Okay. This agreement was meant to be 3 short-term, Exhibit 5? 4 A. Well, we were -- we were in a transition period 5 when -- when Dr. Leonard came back. I had made 6 a decision that -- that I didn't think that it 7 was appropriate for jail administration to 8 oversee medical personnel. Whether that's 9 dealing with medical problems or mental health 10 problems, direct oversight. And so there was a 11 desire that MENd would take control of those 12 responsibilities in regards to them being their 13 employees. It's highlighted, I think, on 14 page 5, where we talk about kind of this 15 transition, on 1.17.2 Nursing and Support Staff, 16 and make a note, "if approved by the County 17 Board of Commissioners." So we were in this 18 transitory period of restructuring and making 19 the mental health professionals and the medical 20 professionals under the direct supervision of 21 the medical provider, who had a higher level of 22 education, expertise, to provide a better 23 quality of care and access to care for medical 24 and mental health situations. So we were doing 25 this to improve our facility.</p>

<p style="text-align: right;">38</p> <p>1 Q. Well, before, historically, prior to the advent 2 of private correctional mental health -- or 3 medical providers, the counties typically 4 provided both medical and mental health services 5 at the jails, isn't that true? 6 A. Probably true. In my opinion, probably a bad 7 idea. That's why we made the change. 8 Q. Well, whether it's a bad idea or good idea, at 9 least constitutionally it's required of the -- 10 of the county? 11 A. To provide treatment; correct? Yep. 12 Q. And in fact, as far as I can tell, the only 13 constitutionally guaranteed health care in the 14 United States is in correctional institutions; 15 would you agree? 16 A. You're probably right, yeah. I don't know. 17 Q. The -- I mean, Sherburne County had mental 18 health providers of its own, didn't it, at some 19 point? 20 A. No. We -- we never had anybody that was a 21 mental health provider. We contracted those 22 services out. Like -- 23 Q. To? 24 A. Like Central Minnesota Mental Health Center. 25 Q. But they were -- they had actual psychiatrists</p>	<p style="text-align: right;">40</p> <p>1 Health Services had on-staff psychiatrists? 2 A. I would assume so. 3 Q. How about on-staff psychologists? 4 A. I'm guessing. 5 Q. How about on-staff other mental health -- 6 qualified mental health providers under the 7 statute? 8 A. I -- I'd be guessing. I mean, you're asking me 9 to answer a question that's going back way in 10 time, and who had what qualifications back then. 11 I just can't -- it's impossible for me to 12 accurately answer that question. 13 Q. Well, to provide adequate mental health care to 14 the inmates, you'd have to send -- they'd have 15 to be seen by qualified mental health 16 professionals; correct? Doesn't that stand to 17 reason? 18 A. True, but I don't believe that means 19 psychiatrists or psychologists. 20 Q. It can mean psychiatrists and -- 21 A. It can be, but doesn't need to be. 22 Q. It's not an exhaustive list? 23 A. Correct. 24 Q. I agree. But you realize that psychiatrists are 25 medical doctors, and they prescribe medicines?</p>
<p style="text-align: right;">39</p> <p>1 and psychologists? 2 A. I don't know what the level of training or 3 education those people had that were coming 4 here. 5 Q. If you contracted with them, wouldn't it be 6 incumbent upon you to know what their 7 qualifications were? 8 A. Yes. And -- and I'm sure jail administration 9 had a much better handle on it than I did. 10 Q. Okay. But traditionally, mental health services 11 are provided by psychiatrists and psychologists; 12 correct? 13 A. Um -- 14 MS. NEARING: I'll object. Lacking in 15 foundation. 16 BY MR. BENNETT: 17 Q. You can answer. 18 A. I think -- my understanding is psychiatrists 19 prescribe medication. And there's a whole host 20 of individuals that can provide mental health 21 services, depending on the level of training. 22 I -- I don't know what -- what levels all of 23 those are, and what requirements to meet that 24 standard is. 25 Q. Well, do you know if Central Minnesota Mental</p>	<p style="text-align: right;">41</p> <p>1 A. Correct. 2 Q. And you have to have a prescribing medical 3 doctor or someone under that doctor to prescribe 4 medical -- psychotropic medications for the 5 mentally ill? I mean, is that -- is that your 6 general understanding? 7 A. Yes. 8 Q. Okay. So you can't have an RN, just a regular 9 RN prescribe medications? 10 A. Correct. 11 Q. Okay. And even if it's -- even if it's someone 12 who isn't a psychiatrist, they have to do it 13 under the auspices of a medical doctor to 14 prescribe medications? 15 A. Yes. 16 Q. All right. Showing you Exhibit 1, can you tell 17 me what that is? 18 A. Yeah, so -- so this is where these contracts 19 start to kind of tie together. So -- and maybe 20 it goes to -- can I look at Exhibit 2 here? 21 Q. Sure. 22 A. Okay. 23 Q. That goes with -- Exhibit 2 and Exhibit 1 go 24 together; correct? 25 A. Correct, yeah. And so we're in this</p>

<p style="text-align: right;">42</p> <p>1 transitory period between Exhibit 5 and 2 Exhibit 2. And Exhibit 1 is the request for 3 board action for -- 4 Q. On Exhibit 2; correct? 5 A. Correct. For a restructuring, basically 6 eliminating the clinic staff under the direction 7 of Sherburne County. No longer county staff. 8 That -- that they would either be absorbed by 9 MEnD, or -- or they wouldn't be employees. 10 Q. It doesn't say that in the contract, does it, 11 Exhibit 2? 12 A. It doesn't say what? 13 Q. It doesn't say that the -- that MEnD will absorb 14 the county staff? 15 A. Um, well -- 16 Q. In Exhibit 2? 17 A. Well, I thought we reference it in Exhibit 5, 18 though, don't we? I think -- so again, I think 19 if we go back to that 1.17.2, you know, we 20 talked about this interim period of nursing 21 service and support staff be provided by the 22 county, and eventually transferred if approved 23 by the county board of commissioners. 24 Q. Okay. 25 A. So --</p>	<p style="text-align: right;">44</p> <p>1 health; right? 2 A. Yes. 3 Q. So who did you refer -- who -- who was the 4 mental health specialty service that you used? 5 A. Um, well, I think -- I think that probably would 6 be a question for -- for MEnD. I don't know 7 that we had one -- one location where we would 8 send people out, whether it would be to 9 different -- different clinics or different 10 hospitals. You know, sometimes it would be an 11 emergency transfer out, so I -- 12 Q. But "Specialty Services" is defined as (as 13 read), "Medical services that require a 14 physician to be board certified in his 15 specialty, including, but not limited to 16 dermatology, gynecology, and mental health"; 17 correct? 18 A. Correct. 19 Q. Do you know what "board certification" means? 20 A. Uh-huh. 21 Q. What does it mean to you? 22 A. Licensed. 23 Q. Well, -- doesn't that mean board certified by 24 the particular specialty? "Board certified" 25 means certified by the Board of Gynecology, the</p>
<p style="text-align: right;">43</p> <p>1 Q. So then you signed a different contract that 2 supersedes that contract; right? 3 A. Right. And this language does not then exist in 4 Exhibit 2, because that transition took place. 5 Q. Okay. Exhibit 2 indicates, for example -- let's 6 just -- let's kind of start with the beginning 7 of it. 8 The recital says (as read), "The county 9 desires to provide professional and responsive 10 healthcare services to the inmates/detainees." 11 Correct? 12 A. Where am I at here? Okay, yes. 13 Q. I take it, it was also the understanding you had 14 to do the level of care that's required by the 15 United States Constitution and the case law 16 surrounding it; correct? 17 A. Correct, yeah. 18 Q. Okay. Now, you talk about off-site services and 19 specialty services, and they're both defined on 20 page 2 of the contract; correct? 21 MR. HIVELEY: You're in Exhibit 2 now? 22 MR. BENNETT: Yep. 23 THE WITNESS: Yes, sir. 24 BY MR. BENNETT: 25 Q. And specialty services also calls for mental</p>	<p style="text-align: right;">45</p> <p>1 Board of Psychiatry and Neurology, the Board of 2 Dermatology. 3 A. Okay. 4 MR. HIVELEY: Object to form. 5 Foundation. 6 Answer if you know. 7 THE WITNESS: Okay. 8 BY MR. BENNETT: 9 Q. Well, I -- who's negotiating this contract with 10 MEnD? You, right, and your lawyer? 11 A. Correct, yes. 12 Q. So I'm assuming you know what the contract 13 means. Am I right? 14 A. Yes. 15 Q. Okay. Now, it says, if you look at 1.12. 16 A. What page are you on, sir? Four? 17 Q. Four, yeah. It says that (as read), "MEnD will 18 supply an on-site mental health specialist 19 (non-prescribing)" -- so it's not a doctor; 20 right? 21 A. Right. 22 Q. -- "for inmate/detainee care three days a week, 23 who can perform on-site mental health 24 assessments." And "assessments" are essentially 25 a diagnostic assessment?</p>

<p style="text-align: right;">46</p> <p>1 A. Yes. 2 Q. So you find out is the person, you know, 3 suffering anxiety, is the person having a major 4 depressive disorder, is the person 5 schizophrenic; that sort of -- 6 A. Yes. 7 Q. -- thing? All right. And it then says (as 8 read), "MEnD will refer inmates/detainees to the 9 on-site crisis intervention services when 10 indicated." Now, who -- at the time of this 11 contract, who's the on-site crisis intervention 12 service? 13 A. MEnD. 14 Q. Well, the crisis intervention -- read the next 15 sentence. 16 A. Where are you at, sir? 17 Q. After -- it says (as read), "The crisis 18 intervention services will be provided by the 19 facility staff." 20 A. Uh-huh. Yes, sir. 21 Q. It says that; right? 22 A. It does say that. 23 Q. So at least under this contract, under the 24 written terms of this contract, Sherburne County 25 is going to provide the crisis intervention</p>	<p style="text-align: right;">48</p> <p>1 THE WITNESS: I can't -- I can't speak 2 to MEnD. I can speak to what our practice is, 3 and what we currently are doing since the 4 signing of this contract, and that's their role. 5 BY MR. BENNETT: 6 Q. So you -- you contend that's MEnD's role, and 7 not the Sherburne County's role? 8 A. Correct. 9 Q. Under the terms of this contract? 10 A. With the explanation of that sentence, correct. 11 Q. Well, contracts usually don't need outside 12 explanation. That's the point. 13 The other thing it says, is the -- look at 14 the next sentence. (As read), "MEnD will 15 provide the management of psychotropic 16 medication in conjunction with the 17 inmate/detainee's ordering provider." What does 18 that mean? 19 A. Well, in conjunction with the ordering provider. 20 Q. Yeah. Who is that? 21 A. So the provider would be Dr. Leonard, or the 22 person that they refer the inmate or detainee 23 to. 24 Q. Well, it says the inmate or detainee's, and 25 that's a possessive, inmate "ordering provider";</p>
<p style="text-align: right;">47</p> <p>1 services? 2 A. I believe, my opinion, that that had changed 3 when we went to this contract, and that should 4 say "MEnD," or it should have been eliminated 5 completely. 6 Q. But it wasn't? 7 A. You're right, it wasn't -- 8 Q. And -- 9 A. -- unfortunately. 10 Q. -- there was no written amendment, like there 11 was on Exhibit 5? 12 A. Correct. This is similar language that was seen 13 in the ACH contract and was used as a template. 14 You're correct, it should have been. 15 Q. So is this a mistake of fact? 16 A. Yes, it was a mistake. 17 Q. And is it a mistake of fact on MEnD's part? I 18 mean, it's written and signed by both parties. 19 It says this -- this isn't -- this isn't 20 unclear, is it? "The crisis intervention 21 services will be provided by the FACILITY," in 22 caps, "staff"? 23 MS. NEARING: Objection. Foundation, if 24 you're answering the first part of the question, 25 "mistake on the part of MEnD."</p>	<p style="text-align: right;">49</p> <p>1 correct? 2 A. Uh-huh. 3 Q. It's a matter of accepted fact for you, isn't 4 it, that most of the inmates are not insured? 5 MR. HIVELEY: I'll object. Calls for 6 speculation. 7 BY MR. BENNETT: 8 Q. Well, they -- they don't have their own ordering 9 provider, do they? 10 MR. HIVELEY: Objection. Object to 11 form. 12 THE WITNESS: I can't give you a 13 percentage, but there's a good number of inmates 14 or detainees that come here with already 15 prescribed medications. 16 MR. BENNETT: Okay. 17 BY MR. BENNETT: 18 Q. And what do you do with them? Continue it, or 19 take it away? 20 A. Well, that's the assessment of the provider, not 21 me. I mean -- 22 Q. Which -- which provider? 23 A. The clinic provider. MEnD provider. 24 Q. You're talking about MEnD, not the prescribing 25 doctor?</p>

<p style="text-align: right;">50</p> <p>1 A. They -- they coordinate those efforts.</p> <p>2 Q. Okay. But many of the inmate/detainees don't</p> <p>3 have their own doctor? Would you agree with me?</p> <p>4 A. I would --</p> <p>5 MR. HIVELEY: Objection. Calls for</p> <p>6 speculation. Lack of foundation. And asked and</p> <p>7 answered.</p> <p>8 Go ahead and answer, if you can.</p> <p>9 THE WITNESS: Okay. I would agree with</p> <p>10 you, that there's a percentage of</p> <p>11 inmates/detainees that don't come with a doctor.</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. And in fact, that's another health challenge in</p> <p>14 the correctional industry, that they -- you get</p> <p>15 a bunch of -- you get a high percentage of</p> <p>16 inmates with systemic untreated diseases?</p> <p>17 A. That's true, yeah.</p> <p>18 Q. And they're systemic untreated diseases because</p> <p>19 the people don't go to doctors, or have doctors,</p> <p>20 or have insurance; correct?</p> <p>21 A. True.</p> <p>22 Q. And in fact, you have inmates that come with</p> <p>23 mental health problems that are self-medicating</p> <p>24 with anything from, say, marijuana to heroin, to</p> <p>25 methamphetamine, to any other op- -- many other</p>	<p style="text-align: right;">52</p> <p>1 abuse services at the facility?</p> <p>2 A. Uh-huh. So under this contract, we had a mental</p> <p>3 health specialist for the 24 hours a week. And</p> <p>4 then, you know, what other services they</p> <p>5 coordinated with in the community. I could find</p> <p>6 it for you in two seconds if I went to my</p> <p>7 office. I just don't remember the name of the</p> <p>8 substance abuse company that had come in here on</p> <p>9 a day-to-day basis that also helped provide care</p> <p>10 for the inmates. I just don't remember.</p> <p>11 Q. Were they prescribers as well?</p> <p>12 A. No, certainly not.</p> <p>13 Q. These were chemical dependency counselors?</p> <p>14 A. Correct. Yes.</p> <p>15 Q. All right. It says there that (as read), "MEnD</p> <p>16 will not be responsible for the cost of mental"</p> <p>17 -- on Exhibit 2, again the same paragraph, 1.12,</p> <p>18 the second-to-the-last sentence, "MEnD will not</p> <p>19 be responsible for the cost of mental health</p> <p>20 medications or services prescribed or provided</p> <p>21 by non-MEnD employees." Do you see that?</p> <p>22 A. Yes, sir.</p> <p>23 Q. It said (as read), "MEnD will also be</p> <p>24 responsible for providing urgent mental health</p> <p>25 tele-medicine services of inmates and detainees</p>
<p style="text-align: right;">51</p> <p>1 opioids; is that true?</p> <p>2 A. I would say that's true.</p> <p>3 Q. And you don't let them self-medicate when</p> <p>4 they --</p> <p>5 A. No, sir.</p> <p>6 Q. -- come to this facility?</p> <p>7 A. No, sir.</p> <p>8 Q. And I understand that.</p> <p>9 A. Yeah.</p> <p>10 Q. But that causes another problem, and that is the</p> <p>11 withdrawal?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Yes?</p> <p>14 A. Yes.</p> <p>15 Q. I'm not trying to --</p> <p>16 A. No, I -- I'm not -- I forget I'm being recorded.</p> <p>17 I'll say "yes" instead of nod.</p> <p>18 Q. And then it says (as read), "MEnD's medical team</p> <p>19 will coordinate with the mental health and</p> <p>20 substance abuse services at the facility."</p> <p>21 A. Uh-huh.</p> <p>22 Q. Who, at the time of the execution of Exhibit 5,</p> <p>23 was the mental health and substance abuse</p> <p>24 services -- at the time that Exhibit 2 was</p> <p>25 signed, who was the mental health and substance</p>	<p style="text-align: right;">53</p> <p>1 as appropriate."</p> <p>2 Now, that's -- that's one -- as I see this</p> <p>3 paragraph, MEnD has to do two things: It has to</p> <p>4 supply an on-site mental health specialist for</p> <p>5 three days a week to perform mental health</p> <p>6 assessments, and it has to provide urgent mental</p> <p>7 health tele-medicine services. And then there's</p> <p>8 some coordination work with on-site facility</p> <p>9 staff and substance -- mental health substance</p> <p>10 abuse counselors. Is that different than your</p> <p>11 understanding of this paragraph?</p> <p>12 A. It is.</p> <p>13 Q. Okay. So where do you -- what language does --</p> <p>14 supports your understanding of the paragraph?</p> <p>15 A. It's -- it's taking what I know of the whole</p> <p>16 situation, and putting the whole situation in</p> <p>17 context. And as we went through the process of</p> <p>18 getting rid of ACH and signing the first</p> <p>19 contract with Dr. Leonard, the amendment with</p> <p>20 Dr. Leonard, going to the county board and</p> <p>21 transitioning those staff away from being county</p> <p>22 employees, and under the umbrella of MEnD, you</p> <p>23 know, the -- the one sentence that you referred</p> <p>24 to, I don't think is in a vacuum. It's -- I'm</p> <p>25 putting it all in context, because we were here,</p>

<p style="text-align: right;">54</p> <p>1 we lived it, and the purpose and the intent of 2 what we were doing. 3 Q. Article 5, paragraph -- page 11 of the agreement 4 has a number of terms and conditions -- 5 A. Five. 6 Q. -- correct? 7 A. You're at Exhibit 5, sir? 8 Q. Exhibit -- Exhibit 2. 9 A. Exhibit 2. 10 Q. Article 5. 11 A. Article 5. 12 Q. Page 11. 13 A. Okay. 14 Q. 5.0 says, "Amendments." (As read) "This 15 agreement may be amended at any time only by the 16 written consent of both parties." Do you see 17 that? 18 A. I do. 19 Q. Do you understand what that means? 20 A. I do. 21 Q. It means you got -- you have to use a written 22 amendment procedure like you used on the prior 23 contract -- 24 A. Uh-huh. 25 Q. -- correct, with MEnD?</p>	<p style="text-align: right;">56</p> <p>1 A. Correct. 2 Q. But if I understand correctly, you're telling me 3 that this contract is wrong in terms of the 4 practice, and the promises made by MEnD to you; 5 is that right? 6 A. Correct. Our agreement, how we provide 7 services -- honestly, not aware of the language 8 error until we started reviewing this case. So 9 it had been in place a long time. 10 And I understand what you're saying about 11 5.0. And we perhaps should -- should be more 12 attentive and do a better job, but we've amended 13 the contract, I guess, in a gentleman agreement 14 way. We've -- we've increased the mental health 15 services over the years from 24 hours a day, I 16 think it went to 32. It went to -- 17 Q. Twenty-four hours a week? 18 A. I'm sorry, yes. A week. To now 40 hours a 19 week. And -- and I don't remember the last time 20 we increased it, so we're over 40 hours a week 21 now. And so, you know, we don't -- we haven't 22 signed a quick amendment for each alteration 23 either. 24 Q. But you make additions to the payments to MEnD 25 accordingly?</p>
<p style="text-align: right;">55</p> <p>1 A. Yes. 2 Q. And as far as I have been able to determine, in 3 requests from both MEnD and from you, there is 4 no amendment to this contract? 5 A. Correct. 6 Q. Then 5.4 says -- is entitled, "Effect on Prior 7 Agreements." It says (as read), "This agreement 8 will supersede and take precedence over prior 9 agreements, including the April twenty -- the 10 April 17, 2014 agreement and the April 21, 2014 11 agreement." Is that right? 12 A. Yes. 13 Q. So those other agreements fall away in relation 14 to the language of this agreement, Exhibit 2? 15 A. Yes. 16 Q. And the next paragraph says, paragraph 5.5 says 17 (as read), "This agreement constitutes the 18 entire agreement of the parties and is intended 19 as a complete and extensive statement of the 20 promises, representations, negotiations, 21 discussions, and agreements that have been made 22 in connection with the subject matter hereof." 23 The subject matter of the contract -- 24 A. Uh-huh. 25 Q. -- correct?</p>	<p style="text-align: right;">57</p> <p>1 A. Correct, yeah. We track the hours and we make 2 the additional payments, yes. 3 Q. Have you talked to -- when this was discovered, 4 did you talk to Dr. Leonard? 5 A. No. 6 Q. Because this was news to you, when I pointed it 7 out to your counsel -- 8 A. Yes. 9 Q. -- and it became -- this is -- this contractual 10 anomaly, if you will, is something you learned 11 in the last 30 days or so? 12 A. Yeah. It's not our practice, yeah. 13 Q. Okay. When you presented it to the board, how 14 did you explain it? 15 A. The contract? 16 Q. Yeah. 17 A. Um, I don't know. I mean -- 18 Q. Is that on tape? 19 A. No, it's not. We don't record -- it will be 20 here shortly, but we never recorded anything 21 back then. I'm sure I went through the issues 22 that we were having, and the reasons for why we 23 wanted to make the change. You know, any time 24 that there's a potential for a county staff 25 layoff. We had no control, whether or not MEnD</p>

<p style="text-align: right;">58</p> <p>1 would absorb them all. I don't remember if they 2 did or didn't, but you know -- 3 Q. Did you actually lay the people off? 4 A. Yeah, that was the intent; that if MEnD didn't 5 absorb them, then they would not be employees. 6 That's what the restructuring was about, the 7 workforce adjustment. 8 Q. Exhibit 1 says (as read), "The proposed contract 9 with MEnD Correctional Care has been reviewed by 10 County Attorney Kathleen Heaney" -- 11 A. Uh-huh. 12 Q. I hope I'm saying that right. 13 A. You are, yes. 14 Q. -- "Sheriff" -- you? 15 A. Yeah. 16 Q. -- and "Sheriff Legal Counsel Greg Wiley, and 17 County Administrator Steve Taylor." 18 A. Yeah. We all missed it. 19 Q. And this workforce adjustment, is that what 20 you're talking about, the layoff? 21 A. Yes, sir. Yeah. That they were not going to be 22 county employees. 23 Q. Did you make a side deal with MEnD, that they 24 would hire those people, though? 25 A. No, absolutely not.</p>	<p style="text-align: right;">60</p> <p>1 essentially, demoted? 2 A. Well, Dr. Leonard set up that structure as to 3 who he wanted where. Demoted would be -- I 4 would demote her, but she wasn't my employee to 5 demote. 6 Q. But it's -- it's a lesser title and duties and 7 responsibilities, if you go from director of 8 nursing -- 9 A. Yes. 10 Q. -- to something under that, like nurse? 11 A. Yes, sir. 12 Q. But you understood when you did this contract, 13 that it didn't absolve you from your 14 constitutional duties? 15 A. Yes. 16 Q. So do you have to be watchful and mindful that 17 MEnD, then, is meeting your constitutional 18 duties? 19 A. Yes. 20 Q. How do you do that? 21 A. Well, we do it in a number of ways. We have 22 peer reviews, so we'll contract anything -- I 23 can give you a contract -- I remember the name 24 of the medical provider that will come in and do 25 a peer review, do an audit so to speak, pull a</p>
<p style="text-align: right;">59</p> <p>1 Q. Were they hired? 2 A. I know some of them were. I can't tell you how 3 many were and were not. 4 Q. Do you remember anybody who wasn't? 5 A. No. But I don't think everybody was absorbed. 6 I think maybe some got other jobs. They may 7 have chose not to. But Dr. Leonard could tell 8 you. But I don't think they were all taken 9 on -- 10 Q. All right. 11 A. -- if my memory serves me right. 12 I can tell you, that the director of nursing 13 at the time was replaced by his director of 14 nursing, so that's one thing that sticks in my 15 mind. 16 Q. Who -- who was the director of nursing that was 17 replaced? 18 A. Her name was Jen Thompson at the time, but she 19 -- she was, I believe, absorbed, but not the 20 director of nursing. 21 Q. She became some other -- because she's -- she's 22 in the records. 23 A. Yeah, she's -- I think she's still with us -- or 24 with MEnD, yeah. 25 Q. But she was a prior director of nursing and got,</p>	<p style="text-align: right;">61</p> <p>1 number of files -- 2 Q. Well, I understand peer reviews and audits to 3 be different things. Can you explain to me 4 what -- who did whatever? Who did what? 5 A. Yeah. So we would do the peer reviews; right? 6 So they'd pull a number of files and look at 7 those files to see that things are in order. We 8 would -- Mr. Norberg from ICE, who is also a 9 nurse, he would come in and do reviews 10 periodically. Of course, it's with ICE 11 detainees, although they all receive the same 12 care through our clinic, it doesn't matter if 13 you're an ICE detainee or a county inmate, or -- 14 we would have ACA audits. We would have ICE 15 audits. We'd have Minnesota Department of 16 Corrections audits, so there's -- there's a lot 17 of eyes on, in particular, medical and mental 18 health. It's probably the most sensitive issues 19 and most scrutinized reviews that we receive 20 when we receive facility audits. 21 Q. Well, because you are -- you have federal 22 prisoners, you are required to follow the 23 Federal Performance-Based Detention Standards? 24 A. I'm not sure what you're referring to. I'd like 25 to learn more.</p>

<p style="text-align: right;">62</p> <p>1 Q. Well, it's the -- the Federal Performance-Based 2 Detention Standards are based on the American 3 Correctional Association standards as designed 4 for implementation of policies and procedures in 5 reviewing non-federal facilities that house 6 federal detainees. That applies to you; right? 7 A. Yes, we -- we started our ACA Accreditation 8 process in late 2017, I think, and were 9 accredited in 2018. 10 Q. You have to follow their suicide prevention 11 section as well? 12 A. I don't -- I don't know what that section calls 13 for that you're referring to. 14 Q. Well, your jail has to follow the federal 15 standards, correct, because of the federal 16 detainees that you house? 17 A. We -- we are under Minnesota Department of 18 Corrections standards, and we're under the 2011 19 -- I'm sorry, 2000 standards for ICE detainees. 20 Q. It is 2011, you're right. 21 A. No. 22 Q. 2011 -- 23 A. No. So -- 24 Q. -- is the last time they did the Federal 25 Performance-Based --</p>	<p style="text-align: right;">64</p> <p>1 expert is that, you know, who's sort of the 2 expert on this, is that that -- that would 3 apply. And if they -- if they have an exception 4 of the 2011 standard, I can't believe they would 5 give an exception from the 2000 -- 6 MR. HIVELEY: I don't know anything 7 about that. I'm just telling you how to get the 8 document. 9 MR. BENNETT: All right. Well -- 10 THE WITNESS: I can assure you, we are 11 under the 2000 federal government standard for 12 ICE detainees. I can absolutely assure you. We 13 just submitted an RFP that they requested for 14 us, or our facilities responding to 2011 with 15 the 2015 revisions. I'm pretty well aware of 16 those standards and what we're required to do. 17 MR. BENNETT: Okay. Well, I want to see 18 if they have to follow the suicide prevention 19 plan policy. 20 MR. HIVELEY: I'm telling you all I 21 can -- 22 MR. BENNETT: Okay. 23 MR. HIVELEY: -- about the document. 24 MR. BENNETT: If you can give it to me, 25 I'd expect you to give it to me. If not, let me</p>
<p style="text-align: right;">63</p> <p>1 A. You're right, that's true, but we still operate 2 under the 2000 standards per our contract that 3 we just recently signed. A lot of that has to 4 do with -- you know, there's some change in 5 standards, like outdoor recreation for ICE 6 detainees. Our facility doesn't comply with 7 that and our physical structure makes it, at 8 this time, unable to comply, so we're under 9 2000 standards. 10 Q. You understand -- 11 MR. BENNETT: Well, I'd request a copy 12 of that contract, Jason. 13 THE WITNESS: Uh-huh. 14 MR. HIVELEY: Are we able to produce 15 that? Or do they have to make a Freedom of 16 Information Act to request? 17 THE WITNESS: I think we can produce 18 that. 19 MR. HIVELEY: I know in another case I 20 have, the feds have said if -- if someone wants 21 copies of their materials, you have to go -- you 22 have to make a FOIA request. But we can check 23 on that, and if that's not the case, we'll get 24 it to you. 25 MR. BENNETT: My understanding from our</p>	<p style="text-align: right;">65</p> <p>1 know, will you? We can make a FOIA request. 2 BY MR. BENNETT: 3 Q. Who was the responsible health authority under 4 Exhibit 2? 5 A. Medical provider? 6 Q. Yeah. 7 A. Well -- 8 Q. No. The responsible health provider. Is that 9 Dr. Leonard? 10 A. Yes. Or -- 11 Q. And who was the medical provider under -- if 12 they were -- that MEnD gave you? 13 A. Um, I'm not sure who is in working, at the time. 14 I mean, we've had some different ones over time. 15 Sometimes it's Dr. Leonard, sometimes it's 16 somebody else. Um -- 17 Q. Do you remember Crystal Waagmeester? 18 A. No, sir. 19 Q. That doesn't ring a bell, at all? 20 A. When they -- when they're not county staff, it's 21 -- I don't know them as well. 22 Q. Okay. So you don't -- you don't know or claim 23 to know all of the medical providers? 24 A. No. No, sir. 25 Q. In terms of the -- the people designated as</p>

<p style="text-align: right;">66</p> <p>1 medical providers, do you have minimum criteria 2 that you care about, since it's your duty? 3 A. Uh-huh. We -- we do care that -- like we talked 4 about earlier, that the people that are coming 5 through our door, that we feel comfortable 6 coming through our door, and that we do an 7 assessment and a background investigation. 8 We -- we rely on MEnD to make sure that the 9 medical standards or licensing is -- is met. 10 Q. Did you inquire at the time that this contract 11 was formed, about the number of suicides in 12 facilities that MEnD was the contracted medical 13 provider? 14 A. No, sir. 15 Q. Why not? 16 A. I guess I didn't think to -- to do that. My 17 primary focus was improving the access to 18 medical and mental health care, and that's why I 19 fired ACH and -- and insisted on an increase in 20 mental health hours here, and improving that. 21 It was -- it was to make an improvement. I -- I 22 didn't -- I wasn't aware there was an issue, if 23 there is one. 24 Q. You didn't -- for example, do you know how many 25 suicides in Stearns County --</p>	<p style="text-align: right;">68</p> <p>1 Sherburne County jail in the last five years? 2 A. Two, I believe. 3 Q. James Lynas is one of them; right? 4 A. Uh-huh. 5 Q. What's the other person? 6 A. I'd have to retrieve my records. 7 Q. Both hanging? 8 A. Yes. 9 Q. Did both occur in special housing? 10 A. No. 11 Q. Where did the other one occur? 12 A. In a different housing unit. I can't tell you 13 from memory what the housing unit was. 14 Q. What is the housing unit described as "Gamma"? 15 A. So "Gamma" is our intake unit. And so all 16 inmates arriving at the Sherburne County Jail 17 would go to Gamma for a period of time, an 18 observation period, an orientation period, if 19 you will, for a classification period. And so 20 we are -- 21 Q. Is that -- go ahead. 22 A. So we're placing them hopefully appropriately 23 within our facility, based on no contacts; 24 right? So if we're -- codefendants, we don't 25 want to be in the same housing care. We pair</p>
<p style="text-align: right;">67</p> <p>1 That's just up the road a bit; right? 2 A. Uh-huh. 3 Q. -- that happened on MEnD's watch? 4 A. I do not. 5 Q. Do you know if any did? 6 A. Um -- 7 MS. NEARING: Objection. Foundation and 8 form. 9 THE WITNESS: I would have to know the 10 dates that the -- that they were -- they were 11 actually providing the services there, and then 12 I could probably take a better swing at it. 13 BY MR. BENNETT: 14 Q. Do you know of any suicides in Stearns County, 15 your neighboring county? 16 A. I know of one, and it's because we -- we did a 17 conflict-of-interest investigation and I 18 authorized that investigation. They didn't -- 19 they don't want their own investigators doing 20 it, and so we conducted that investigation. 21 Q. Do you remember the name of the decedent? 22 A. Sorry, sir, I don't. 23 Q. Does the name "Kyle Baxter-Jensen" ring a bell? 24 A. No. 25 Q. Okay. How many suicides have occurred in the</p>	<p style="text-align: right;">69</p> <p>1 with care, so we don't have, you know, a sex 2 offender paired with somebody they shouldn't be 3 paired with. So there's all kinds of different 4 reasons why we put them there until we get to 5 know them a little bit, and check the -- check 6 with other facilities and gain some background 7 information and hopefully do the best job we 8 can, putting them appropriately placed within 9 the facility. 10 Q. Is Gamma the unit that you would have suicide 11 watch in? 12 A. Well -- well, suicide watch is -- is done for 13 individuals in booking. 14 Q. Is booking different than intake? 15 A. Yes. 16 Q. Okay. 17 A. Yep. 18 Q. So booking is what? What does booking refer to? 19 Just booking? 20 A. It is. There's -- there's holding cells 21 right -- right off of the main intake area that 22 are camera'd cells -- 23 Q. Okay. 24 A. -- where we would -- we would conduct those 25 suicide watches, if you will, in there.</p>

<p style="text-align: right;">70</p> <p>1 Q. Okay. Tell me how this workforce adjustment 2 reapplication with MEnD, or application for 3 essentially rehire with MEnD, or new hire with 4 MEnD -- that took place over what period of time 5 and what dates? 6 A. So let me see here, which is the first one. So 7 we signed the first contract on what, the 17th. 8 Q. Yeah. The 17th, 21st and then -- 9 A. Yep. And then the authorization by the county 10 board was July 30th of '14. I believe the 11 transition took place shortly thereafter, 12 probably in August. 13 Q. Okay. Would crisis intervention also be 14 associated with dealing with people in acute 15 withdrawal? 16 A. For -- for clinic staff to deal with, yes, and 17 for us to watch, yes. 18 Q. What's supposed to occur if the inmate/detainee 19 doesn't have his or her own ordering provider? 20 A. Can you be more specific, "what's to occur"? 21 Q. Well, if a person needs psychotropic medication, 22 it's -- it said that MEnD will provide 23 management in conjunction with the 24 inmate/detainee's ordering provider. What if 25 they don't have their own?</p>	<p style="text-align: right;">72</p> <p>1 population and not infect the population. It's 2 very difficult to answer -- a question to 3 answer. 4 Q. Did you review James Lynas' file in preparation 5 for the deposition? 6 A. Yep, I did read it over about a week ago. 7 Q. And it would be true to say that Mr. Lynas did 8 not -- or had not been receiving proper care on 9 the outside prior to being an inmate? 10 MR. HIVELEY: Objection. Foundation and 11 speculation. 12 THE WITNESS: I don't know what his 13 medical care was on the outside. 14 BY MR. BENNETT: 15 Q. Well, he -- he reported that he was 16 self-medicating; correct? 17 A. I don't have that in the criminal file. 18 Q. Well, you have it in your own jail file, that he 19 reported that he'd taken street drugs, both 20 opioids and others, daily -- 21 A. Ah -- 22 Q. -- prior to coming to the institution; correct? 23 A. I think from the booking information, I -- I 24 don't know that it was opioids. I don't know 25 that I would agree with that. That might have</p>
<p style="text-align: right;">71</p> <p>1 A. Um -- 2 Q. Do you see that they get an ordering provider? 3 A. Yes, they -- they take care of that aspect in 4 the clinic. They -- they were to do a medical 5 and mental health assessment screening with 6 inmates coming into the facility. 7 Q. Special housing -- let me make sure I 8 understand. That's 23 in/1 out, in the dayroom? 9 A. Correct. 10 Q. How long can an inmate spend in special housing? 11 Is there a limit? 12 A. I -- I don't know that there's a statutory -- a 13 statutory limit. 14 Q. Traditionally, how long in this institution will 15 a person spend? What's the most a person will 16 spend in special housing? 17 A. Um, I don't know that I -- that we have -- we 18 have a set date. It's based on a constant 19 review of those inmates and a way to transition 20 them back out of there, depending on the 21 circumstances. I mean, there's a wide variety 22 of circumstances, like I said, that keep you 23 back there. One could be infectious disease. 24 You know. The length of time is, you know, till 25 they're able to integrate back with the</p>	<p style="text-align: right;">73</p> <p>1 been part of it. I thought it was 2 methamphetamine and alcohol abuse, is what my 3 memory tells me. I thought he was on a chemical 4 withdrawal watch for alcohol. 5 Q. Okay. 6 A. But my memory might be bad, too. 7 Q. He also had indicated he'd had mental health 8 issues, when he was clean, when he was sober; 9 correct? 10 A. Our intake, my memory tells me that he denied 11 any mental health issues. And I believe the 12 information from Anoka County, previous to him 13 getting to us, he denied any mental health 14 issues. 15 Q. Should moves to special housing be communicated 16 to the medical staff? 17 A. Well, in this particular case, the -- the 18 medical staff were the ones that put him on the 19 15-minute watch. 20 Q. Well, the 15-minute-watch was imposed on 21 November 5th. He was moved to special housing 22 on November 8th; correct? 23 A. Yes. 24 Q. The CO is the one that moved him to special 25 housing, not any MEnD --</p>

<p style="text-align: right;">74</p> <p>1 A. Well, the physical movement of him, sure, but 2 the -- the -- to -- because of the -- the 3 behavior, is why he went to special housing. 4 Q. But -- was that a MEnD decision, or -- do you 5 contend that was a MEnD decision? 6 A. No, no, no. The decision to put him on the 7 15-minute watch was the MEnD decision. 8 Q. And the decision to put him on special housing 9 was? 10 A. The sheriff's office, a correctional decision. 11 Q. Is the 15-minute watch consistent with being in 12 special housing? 13 A. No, not necessarily. Meaning -- Lynas was on a 14 15-minute watch when he was in community release 15 as well. 16 Q. Community release is what, gen pop? 17 A. Yeah, general population. It's just what we 18 call that particular housing unit. 19 Q. And isn't a 15 -- you know, I've -- I've taken a 20 lot of these depositions, too. My understanding 21 is that a 15-minute watch is impractical and 22 almost impossible in a general population 23 setting; is that true? 24 A. No. We do it all the time. 25 Q. Okay. So your understanding is, that he came to</p>	<p style="text-align: right;">76</p> <p>1 with it"? 2 A. No, sir. 3 Q. His first health assessment at the jail 4 indicated that he was having suicidal ideations 5 on November 2nd, due to associated -- pain 6 associated with withdrawal? 7 A. I'm not aware of that. 8 Q. Do you remember him endorsing significant 9 withdrawal symptoms; stomach pain, that sort of 10 thing? 11 A. When you asked me the question, if I reviewed 12 the file -- I did not read the file in its 13 entirety. 14 Q. Okay. Okay. Did -- so you didn't review the 15 file -- did you notice he was experiencing 16 nausea, diarrhea, sleep issues, agitation, and 17 eating disturbances? 18 A. No, sir. 19 Q. Do you know what an "altered mental status" is? 20 A. I do not. 21 Q. I bet you don't think it's a positive finding, 22 do you? 23 A. Excuse me? 24 Q. Altered mental status, that wouldn't be a good 25 finding, would it?</p>
<p style="text-align: right;">75</p> <p>1 special housing with a requirement from MEnD of 2 a 15-minute watch? 3 A. Well, he had a 15-minute watch on him before he 4 had the behavioral issue, and so he came to 5 special housing, and that 15-minute watch was 6 still attached to him. Corrections officers 7 can't take somebody off the 15-minute watch; 8 only -- only our clinic staff or medical/mental 9 health professionals can. 10 Q. Do you know what a Beck Depression Inventory is? 11 A. It's a mental health assessment. 12 Q. Do you know, is it considered an accurate and 13 sensitive assessment? 14 A. I don't know. 15 Q. Have you reviewed his MEnD file? 16 A. I have. 17 Q. And on November 5th he talked about a prior time 18 in his life when he felt like giving up, and 19 especially when he was convicted of a felony, 20 and that he'd sold all his guns as a precaution 21 so that he would not shoot himself? 22 A. I don't recall that. 23 Q. Do you remember that? Do you remember him 24 telling -- on the 5th, telling Defendant 25 Pfeifer, "Honestly, I'm suffering and not coping</p>	<p style="text-align: right;">77</p> <p>1 A. It doesn't sound like it. 2 MS. NEARING: Well, objection. 3 Foundation. 4 MR. BENNETT: Why don't we take a 5 five-minute break and use the -- use the men's 6 room. 7 VIDEOGRAPHER: Bob, I've got 25 minutes 8 left. Should I start another? 9 MR. BENNETT: Hmm... 10 VIDEOGRAPHER: Might as well. 11 MR. BENNETT: Yeah. 12 VIDEOGRAPHER: We're going off the 13 record. 14 That will be the end of Disc 1 of the 15 deposition of Sheriff Joel Brott. The time is 16 10:23 a.m. 17 (Recess taken.) 18 VIDEOGRAPHER: We're back on the record. 19 This is the continuation of the deposition 20 of Sheriff Joel Brott. The beginning of Disc 2. 21 The time is 10:52 a.m. 22 Go ahead. 23 BY MR. BENNETT: 24 Q. The inmates get to make telephone calls at the 25 jail; right?</p>

<p style="text-align: right;">78</p> <p>1 A. They do, yeah. 2 Q. They are recorded? 3 A. They are. 4 Q. For what purpose? 5 A. Investigative purpose. If we were to go back 6 and need to know what they're saying. It could 7 be for following up on a criminal investigation. 8 It could be for safety and security of the 9 facility. 10 Q. And the inmates? 11 A. Oh, for sure, yeah. 12 Q. Who -- how are they reviewed? 13 A. Well, there's thousands and thousands and 14 thousands and thousands, as you can imagine; 15 right? Our inmate population is averaging 16 600-plus, so it's -- it's reviewed, you know, on 17 a case-by-case basis, or as-needed basis, 18 depending on the information that we might 19 receive within the correctional facility, or 20 what a criminal investigator might be looking to 21 follow up on. So it would be entirely 22 impossible to review each inmate phone call. 23 Q. Most of them are never reviewed by anybody? 24 A. Oh, that's true, yeah. 25 Q. So you -- for the safety and security of the</p>	<p style="text-align: right;">80</p> <p>1 Q. You're right. So -- 2 A. I mean, somebody who says, "I'm not going to see 3 you for a while," -- we -- we house U.S. 4 Marshall inmates here that are being sentenced 5 to 35 years, and being shipped off to a federal 6 penitentiary. That might not cause us concern. 7 Q. Uh-huh. 8 A. Certainly, if we -- 9 Q. Ever? How about ever? 10 A. If we heard somebody say, you know, "I'm 11 thinking about suicide," that would cause 12 concern every time. 13 Q. Uh-huh. How about giving away your property? 14 A. Well, I guess the best example I can give you: 15 There was -- the individual that was responsible 16 for Jacob Wetterling, was giving away his 17 property to his brother. 18 Q. Uh-huh. 19 A. I don't know if that was a suicide indication. 20 It was, "I'm not going to be around. Take my 21 stuff." 22 Q. Or it could be a fraudulent conveyance, or it 23 could be a lot of things; right? 24 A. It could be, yeah. 25 MR. BENNETT: Let's mark this.</p>
<p style="text-align: right;">79</p> <p>1 insti- -- of the jail itself, and the inmates 2 and the guards therein, you need to have a -- 3 you wouldn't want to get information that's a 4 year old about an escape, would you? 5 A. No. 6 Q. Are there -- are there words that trigger a 7 review? 8 A. Well, it would be based on information that, you 9 know, maybe a correctional officer heard, maybe 10 something that the jail investigator learned. 11 Oftentimes you'll get inmates/detainees that 12 want to provide information, for whatever 13 motivation they have. Sometimes it's accurate, 14 sometimes it's not, but it's case by case. 15 Q. Okay. So if you get an inmate who is saying 16 goodbye to his loved ones, that would be 17 indicative of some potential danger in the 18 security -- or of the facility; correct? 19 A. I guess it depends on the context. 20 Q. Well, if they say, "I'm probably not going to 21 see you anymore," or, "Come get my belongings," 22 or, "I've got a plan for suicide," or -- 23 A. Well, those are two separate things. 24 Q. Well, they're three separate things, actually. 25 A. Right.</p>	<p style="text-align: right;">81</p> <p>1 (Exhibit 6 marked.) 2 BY MR. BENNETT: 3 Q. This is a Sherburne County Jail form? 4 A. It is. 5 Q. And this is an "Inmate's Release of Personal 6 Property and/or Monies"; is that right? 7 A. It is. 8 Q. And that's -- this is the one from -- for James 9 Lynas; correct? 10 A. It is. 11 Q. And you -- you probably don't know this, but 12 that's his sister? 13 A. The name is not familiar to me. 14 Q. And -- but the officer and his badge number and 15 the date that she got the property are listed 16 there? 17 A. It is, yes. 18 Q. Does MEnD staff ever ask you to monitor 19 particular phone calls? Do you ever recall that 20 occurring? 21 A. It would be a great question for the jail 22 investigator. I'm not aware of it. 23 Q. Okay. 24 A. It -- it could happen. 25 Q. Would that --</p>

<p style="text-align: right;">82</p> <p>1 A. Doubtful.</p> <p>2 Q. -- typically get --</p> <p>3 A. Sorry.</p> <p>4 Q. Doubtful?</p> <p>5 A. I would think so, but it would be a better</p> <p>6 question for the investigator.</p> <p>7 Q. Uh-huh. When you have an event like a</p> <p>8 suicide --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- or a homicide, or, you know, you have that --</p> <p>11 that Moyle thing, I remember; right?</p> <p>12 A. Back in 2007?</p> <p>13 Q. A long time ago?</p> <p>14 A. Yeah, a long time ago.</p> <p>15 Q. I didn't take that case.</p> <p>16 A. What's that?</p> <p>17 Q. The -- you go get the phone calls after the</p> <p>18 fact, right, to look at what the inmates had</p> <p>19 done, as part of the investigative process?</p> <p>20 A. It could be part of the investigative process,</p> <p>21 yes.</p> <p>22 Q. I mean, they were provided to us in this case --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- so I assume that was something that is either</p> <p>25 your normal protocol, or you or somebody under</p>	<p style="text-align: right;">84</p> <p>1 Q. So really, they're not addressed in real time,</p> <p>2 but rather on an ex post facto, after-the-fact</p> <p>3 basis, as an investigatory tool?</p> <p>4 A. Correct. Are you talking with this case, or all</p> <p>5 cases?</p> <p>6 Q. All cases, basically.</p> <p>7 A. No, I wouldn't -- I would disagree with that.</p> <p>8 Q. Okay. Some cases you do proactively?</p> <p>9 A. For sure, yeah.</p> <p>10 Q. And they'd be what kinds of cases?</p> <p>11 A. Um, criminal cases. It could be, like we talked</p> <p>12 about, information that we received within the</p> <p>13 facility. Trying to gain additional</p> <p>14 intelligence, safety, and security of the</p> <p>15 facility, the staff, the inmates. I mean, it's</p> <p>16 -- it's a wide -- widespread --</p> <p>17 Q. And this is on the outside? There have been --</p> <p>18 I mean, I'm aware of instances where jail</p> <p>19 inmates order hits on people and witnesses on</p> <p>20 the outside. That's occurred, too; correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. So you'd want to be as proactive as possible;</p> <p>23 correct?</p> <p>24 A. If -- if you know of a threat, or if you know of</p> <p>25 a worry, sure.</p>
<p style="text-align: right;">83</p> <p>1 you ordered it; correct?</p> <p>2 A. It would be very typical, yes.</p> <p>3 Q. For what purpose?</p> <p>4 A. To see what was going on. What was the</p> <p>5 person -- to have an accurate reflection of what</p> <p>6 somebody might have been saying prior to the</p> <p>7 event.</p> <p>8 Q. Okay. So I mean -- and that happens? It's sort</p> <p>9 of the telephonic equivalent of your video</p> <p>10 cameras?</p> <p>11 A. It's a -- it's a recording of history, yes.</p> <p>12 Q. Yeah. And you can even look at them, monitor in</p> <p>13 real time, or listen in real time, or listen</p> <p>14 after the fact; right?</p> <p>15 A. Correct.</p> <p>16 Q. And watch?</p> <p>17 A. Yep.</p> <p>18 Q. But in any event, it might give you information</p> <p>19 about what you were dealing with --</p> <p>20 A. Yes.</p> <p>21 Q. -- at the time? Or what the inmate was dealing</p> <p>22 with?</p> <p>23 A. Yes.</p> <p>24 Q. Have you listened to any of the phone calls?</p> <p>25 A. No.</p>	<p style="text-align: right;">85</p> <p>1 Q. Okay. And when you employed the -- and by "you"</p> <p>2 I mean the sheriff and the county.</p> <p>3 A. Uh-huh.</p> <p>4 Q. "You," the second-person plural.</p> <p>5 When the county and the sheriff was in</p> <p>6 control of the staff, you knew who they were;</p> <p>7 correct?</p> <p>8 A. Yeah.</p> <p>9 Q. And they had a direct line of communication,</p> <p>10 direct or indirect to you, a way to get</p> <p>11 information to you?</p> <p>12 A. Sure. Yep.</p> <p>13 Q. And they didn't have to go back through the</p> <p>14 filter of another company?</p> <p>15 A. Correct.</p> <p>16 Q. And the other company that's involved is a</p> <p>17 for-profit organization?</p> <p>18 A. Are you -- ACH and MEnD?</p> <p>19 Q. ACH and MEnD?</p> <p>20 A. Yeah.</p> <p>21 Q. And that was different than when the county had</p> <p>22 its own employees; correct?</p> <p>23 A. Meaning for profit?</p> <p>24 Q. Well, when they had -- when you had your own</p> <p>25 employees, the profitability to the owners of</p>

<p style="text-align: right;">86</p> <p>1 the company wasn't a concern; correct?</p> <p>2 A. Correct.</p> <p>3 Q. And like I say, you -- you already indicated</p> <p>4 that you knew who they were and you could -- you</p> <p>5 know, just like our jail tour, where you and --</p> <p>6 and -- is it Captain Carr or --</p> <p>7 A. Commander Carr.</p> <p>8 Q. -- Commander Carr said "Hi" to everybody and</p> <p>9 knew them all by name? All the COs, basically;</p> <p>10 correct?</p> <p>11 A. I try to. There's -- there's 300 employees.</p> <p>12 Q. You did a pretty good job, when I saw it, but...</p> <p>13 A. Daytime staff are a little more seasoned staff,</p> <p>14 and did those shifts, yes.</p> <p>15 Q. But -- and you had the -- a similar -- and I</p> <p>16 would assume Commander Carr would have a similar</p> <p>17 response to --</p> <p>18 A. Yes.</p> <p>19 Q. -- county-employed medical staff?</p> <p>20 A. Yes.</p> <p>21 Q. Now, your expectations of your correctional</p> <p>22 officers are -- are what? Can you tell me</p> <p>23 generally, your expectations?</p> <p>24 A. Yeah. The primary expectation is keep</p> <p>25 themselves and keep the inmates safe. That's</p>	<p style="text-align: right;">88</p> <p>1 the state-mandated 30, to a 15-minute check,</p> <p>2 that's even more important, isn't it?</p> <p>3 A. I wouldn't say it's more important. It's just</p> <p>4 as important.</p> <p>5 Q. Well, but you're being told this is the person</p> <p>6 with some heightened risk, that needs closer</p> <p>7 observation; correct?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And essentially -- in the 15-minute</p> <p>10 watch, if placed by medical staff, is for the</p> <p>11 safety of the inmate, for the most part?</p> <p>12 A. Yeah, there's a wide variety of reasons, but I</p> <p>13 think all watches, whether it's a chemical</p> <p>14 withdrawal, whether it's a suicide, whether it's</p> <p>15 -- you know, they're not eating properly, yeah,</p> <p>16 it's for the safety of the inmate.</p> <p>17 Q. And among things that you'd want to verify in a</p> <p>18 well-being check, is that the person didn't have</p> <p>19 a ligature around their neck?</p> <p>20 A. Yeah, that would be important.</p> <p>21 Q. And you wouldn't expect it to take three</p> <p>22 well-being checks to determine that an</p> <p>23 individual had a ligature around his neck?</p> <p>24 A. I would not expect that.</p> <p>25 Q. And if you do -- if you attempt a well-being</p>
<p style="text-align: right;">87</p> <p>1 the primary goals each day.</p> <p>2 Q. Well, I always thought of it as threefold: Keep</p> <p>3 the community safe from the inmates --</p> <p>4 A. Well --</p> <p>5 Q. -- keep the guards safe from the inmates; and</p> <p>6 keep the inmates safe as well?</p> <p>7 A. We hope to keep them on the inside.</p> <p>8 Q. Yeah.</p> <p>9 A. Yes.</p> <p>10 Q. The well-being checks is not an opportunity for</p> <p>11 the correctional officer to guess what the</p> <p>12 inmate is doing? They -- they need to see that</p> <p>13 the inmate is essentially alive and well;</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. There's a need to visualize that, to actually</p> <p>17 see it?</p> <p>18 A. Yes. Or hear it.</p> <p>19 Q. Or hear it? Use your senses?</p> <p>20 A. Yes.</p> <p>21 Q. So if he -- if he says -- if you call out and</p> <p>22 the inmate responds, you know they're breathing</p> <p>23 and audible and they're, you know --</p> <p>24 A. Uh-huh.</p> <p>25 Q. Okay. When well-being checks are doubled from</p>	<p style="text-align: right;">89</p> <p>1 check on the catwalk, but can't visualize the</p> <p>2 inmate, you need to do additional work, don't</p> <p>3 you, to satisfy the well-being check?</p> <p>4 A. If that circumstance occurred, and they couldn't</p> <p>5 see the inmate, they need to make sure that the</p> <p>6 inmate is doing well, yes.</p> <p>7 Q. Okay. And you can't assume, or trust the luck,</p> <p>8 on that sort of thing?</p> <p>9 A. We wouldn't want to do that, no.</p> <p>10 Q. Especially on a person on a 15-minute watch?</p> <p>11 A. I would say any watch.</p> <p>12 Q. Of course you wouldn't.</p> <p>13 A. Yeah.</p> <p>14 Q. But there's -- there's just a different level of</p> <p>15 scrutiny that requires -- they're on a 15-minute</p> <p>16 watch for a reason; right?</p> <p>17 A. They're -- they're on a 15-minute watch for a</p> <p>18 reason, but my expectation of staff is the same;</p> <p>19 whether they're doing a 15-minute watch or a</p> <p>20 30-minute watch, they're just doing it more</p> <p>21 frequently. The expectation is that they're</p> <p>22 alive and well, they're doing well.</p> <p>23 Q. But you want to increase the observation -- you</p> <p>24 want to decrease the observation interval to</p> <p>25 prevent activity such as the construction of a</p>

<p style="text-align: right;">90</p> <p>1 ligature and the affixation of the ligature to a</p> <p>2 static -- something static in the cell that you</p> <p>3 could use to hang yourself; correct?</p> <p>4 A. That would be one reason, yes.</p> <p>5 Q. Well, I'm referring to this case in particular,</p> <p>6 but --</p> <p>7 A. Okay.</p> <p>8 Q. -- you can think of a number of reasons --</p> <p>9 A. Correct.</p> <p>10 Q. -- that you'd want to, and that being one --</p> <p>11 A. Correct.</p> <p>12 Q. -- in a case involving someone who was intent on</p> <p>13 hanging themselves?</p> <p>14 A. Correct.</p> <p>15 Q. I mean, the things they have to do are, they</p> <p>16 have to fashion some sort of ligature; correct?</p> <p>17 A. Yes.</p> <p>18 Q. They have to get it to a place where they can</p> <p>19 affix it?</p> <p>20 A. Yes.</p> <p>21 Q. And they have to be able to have their weight</p> <p>22 drop on it to accomplish the goal?</p> <p>23 A. Yes.</p> <p>24 Q. And unfortunately, in our line of work, we've</p> <p>25 looked at a lot of hangings, and we have seen</p>	<p style="text-align: right;">92</p> <p>1 A. Uh-huh.</p> <p>2 Q. Yes?</p> <p>3 A. Yes.</p> <p>4 Q. And visualizing the mere top of a person's head</p> <p>5 wouldn't rule out the fact that the person had</p> <p>6 affixed a ligature to them, would it?</p> <p>7 A. That fact alone would not rule that out.</p> <p>8 Q. And to the extent that the head remains static,</p> <p>9 it would continue to not rule that out? You</p> <p>10 don't know if the inmate is well or not well if</p> <p>11 you just look at the top of their head; correct?</p> <p>12 A. I just -- I don't want to -- I want to be clear.</p> <p>13 If we're talking in general terms, or if I'm</p> <p>14 testifying specific to this case?</p> <p>15 Q. Well, testify specific to that catwalk. And you</p> <p>16 see the, you know, essentially the crown of a</p> <p>17 person's head.</p> <p>18 A. Okay. As long as I'm not testifying to what the</p> <p>19 correctional officers observed and why they may</p> <p>20 or may not have thought that Lynas was well.</p> <p>21 Q. Well, there's nothing in their notes that</p> <p>22 indicates why they thought he was well, is</p> <p>23 there?</p> <p>24 A. I thought I read in Correctional Officer Wise's</p> <p>25 statement, that he believed that Lynas -- there</p>
<p style="text-align: right;">91</p> <p>1 that the construction of a ligature takes some</p> <p>2 time; correct?</p> <p>3 A. It depends on the ligature, but...</p> <p>4 Q. I mean, but if you're not handed -- you know, if</p> <p>5 you're not given a rope, or a belt or, you</p> <p>6 know -- I mean, if you have to make a ligature</p> <p>7 out of something that's in the cell, it takes</p> <p>8 some time; correct?</p> <p>9 A. I don't know how much time, but I agree it would</p> <p>10 take time, yes.</p> <p>11 Q. All right. It takes some time to affix it, so</p> <p>12 that it will be secure and hold your weight?</p> <p>13 A. Yes.</p> <p>14 Q. And then it takes some time after the ligature</p> <p>15 is applied and the weight is applied to the</p> <p>16 ligature, for the hanging to occur until someone</p> <p>17 is dead? It takes a -- it's not, like, you're</p> <p>18 being hung and your neck breaks and that kills</p> <p>19 you? It's a -- it's a strangulation death, that</p> <p>20 takes some period of time; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And it's a matter of -- it can go on for some</p> <p>23 period of time --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- until there's actual cyanotic brain death?</p>	<p style="text-align: right;">93</p> <p>1 was some movement during a time or two in the --</p> <p>2 on one of the watch tours. So I just don't want</p> <p>3 to testify for --</p> <p>4 Q. Okay. Well --</p> <p>5 A. -- Correctional Officer Wise.</p> <p>6 Q. -- there can be movement and a ligature being</p> <p>7 applied? And the movement doesn't rule that out</p> <p>8 either, does it?</p> <p>9 A. Again, I can't testify to why he thought or</p> <p>10 didn't think that Lynas was well or not well.</p> <p>11 Q. The matter of fact was, that he wasn't well?</p> <p>12 A. At a point in time, correct.</p> <p>13 Q. There were three well-being checks where he</p> <p>14 wasn't well?</p> <p>15 MR. HIVELEY: Object to form.</p> <p>16 Speculation. Foundation.</p> <p>17 THE WITNESS: I couldn't testify to</p> <p>18 that.</p> <p>19 MR. BENNETT: Okay.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. More than one?</p> <p>22 MR. HIVELEY: Same objection.</p> <p>23 THE WITNESS: He -- Correctional Officer</p> <p>24 Stang at some point found him hanging there and</p> <p>25 he was not well.</p>

<p style="text-align: right;">94</p> <p>1 MR. BENNETT: Uh-huh. 2 BY MR. BENNETT: 3 Q. And it could have been determined from a view 4 from the front of the cell, that he was not well 5 from whenever the ligature was starting to be 6 affixed until the actual death; correct? Until 7 he was cut down? 8 A. I would agree with you that it's easier to see 9 in the cell from the front view than that 10 catwalk, for sure. 11 Q. Well, it's -- 12 A. Easily. Yeah. 13 Q. His well-being would be obvious from the front 14 of the cell? 15 A. Under this circumstance, no question. 16 Q. Okay. And he'd been under the bed -- 17 A. Yes. 18 Q. -- for a period of time? In fact, I think 19 the -- if I remember the video correctly, the 20 officer -- it's Wise, isn't it? 21 A. Wise. 22 Q. He did a triple take when he was under the bed? 23 A. I didn't watch the video, but I thought I 24 recalled seeing in his statement, that he told 25 him to lay on top of the bed instead of under,</p>	<p style="text-align: right;">96</p> <p>1 MR. HIVELEY: You'd be surprised. 2 THE WITNESS: Inmates do a lot of 3 things. I can't say why he was there. 4 BY MR. BENNETT: 5 Q. You don't want him under the bed? 6 A. It's not our preference, no. 7 Q. No. You want to be able to see what he's doing? 8 A. For sure. 9 Q. And it's not quite as important as it would be 10 on patrol, but if you can visualize their hands, 11 you're a little safer too, aren't you? 12 A. Well, I mean, we would have an assumption if 13 they're in a cell and in special housing that 14 they don't have weapons, but that's not to say 15 that we haven't found weapons. 16 Q. That's what I mean. 17 A. Yep. 18 Q. And usually the weapons kind of go along with 19 the hands. I mean, that's sort of general law 20 enforcement skills training 101, whether it's a 21 CO or a patrol officer; right? 22 A. Yeah, but this isn't general population. This 23 is special housing, where there's other 24 safeguards that take place if they were going to 25 have inmate contact.</p>
<p style="text-align: right;">95</p> <p>1 so yes. 2 Q. But I mean, you haven't looked at that video? 3 A. I haven't. 4 Q. He was back and forth and back and forth, I 5 think three times -- 6 A. I have not seen that tape. 7 Q. -- before he orders him to get out from under 8 the bed. 9 A. Okay. 10 Q. If you see someone under the bed for a period of 11 time, would it be pertinent to maybe go inside 12 the cell and see what's going on? 13 A. Again, I need to go back to what indicators if 14 that person is well; right? Is it a rule 15 violation, and we don't want them laying on the 16 floor, or is it that they're not well? 17 Q. Well, on the floor would be one thing. I mean, 18 I could see laying on the floor to do sit-ups or 19 push-ups; right? 20 A. Uh-huh. 21 Q. Something like that? Exercise? Stretch? 22 A. Uh-huh. 23 Q. Under your bed, there's not a whole lot of 24 positive things you could do, is there? 25 A. There's --</p>	<p style="text-align: right;">97</p> <p>1 Q. You need multiple people to go in there? 2 A. Right. So that's why if they're in the dayroom, 3 that the officers don't enter the dayroom with 4 the inmate. 5 Q. I got it. 6 A. As they exit the cell, they are handcuffed 7 through the pass-through. 8 Q. Uh-huh. 9 A. So those are other factors. 10 Q. Sure. You'd rely on the manner of dealing with 11 withdrawal, methamphetamine or benzodiazepine 12 withdrawal, to medical personnel? That's not 13 something you know about; correct? 14 A. I -- no, that's not anything that I would -- 15 that I would do. 16 Q. Okay. 17 MR. BENNETT (to Ms. Bennett): Can I see 18 the exhibits? See what I haven't -- I haven't 19 reviewed. 20 MS. BENNETT: (Passing folder.) 21 (Sotto voce discussion between 22 Mr. Bennett and Ms. Bennett.) 23 (Exhibit 7 marked.) 24 THE REPORTER: Exhibit 7. 25 (Sotto voce discussion between</p>

<p style="text-align: right;">98</p> <p>1 Mr. Bennett and Ms. Bennett.) 2 MR. BENNETT: That's Exhibit No. 9? 3 THE REPORTER: Seven. 4 THE WITNESS: Seven. 5 BY MR. BENNETT: 6 Q. Can you tell me what that is? 7 A. "Inmate Medical & Mental Health Screening." 8 Sherburne County Sheriff's Office, Policy and 9 Procedure Manual. 10 Q. So despite the fact that you have MEnD, you have 11 your own policies and procedures with regard to 12 inmate and -- medical and mental health 13 screening; correct? 14 A. Yep. As it relates to our mental health medical 15 providers, yes. 16 Q. And you require that the mental health screening 17 at the time of admission to the facility be -- 18 be mental health trained or qualified mental 19 health care professional? What does that mean? 20 Or -- 21 A. Where are you reading? 22 Q. Page 3 of 4, paragraph 5. 23 A. Okay. I'm going to get some cheaters. In the 24 last six months -- 25 Q. Yeah, I --</p>	<p style="text-align: right;">100</p> <p>1 psychosis, depression, anxiety and/or 2 aggression," and some of that -- those are by 3 observation, by a trained professional; correct? 4 A. Could be, yes. And, I mean, certainly if our 5 staff sees something that's way out of the 6 ordinary -- 7 Q. But this is for a mental health trained or 8 qualified mental healthcare personnel. 9 A. Uh-huh. I mean -- 10 Q. That isn't a CO? 11 A. Well, our -- our COs, when -- have experience 12 dealing with individuals that -- that have 13 mental health conditions; right? They live 14 within our facility. They receive training, 15 things to look for. People with schizophrenia, 16 things to look for. You know, other -- other 17 mental health conditions. So are they true 18 mental health professionals or licensed? No. 19 But they -- but they certainly would -- could 20 recognize some of those conditions. 21 Q. Well, I -- this is your policy, and it was in 22 effect -- 23 A. Yeah. 24 Q. -- like, January 24, 2017, and was in effect at 25 the time of Lynas' arrival at and death in the</p>
<p style="text-align: right;">99</p> <p>1 A. -- I'm struggling. 2 Q. That's not the world's greatest lighting. 3 A. (Reviewing exhibit.) Yes. 4 Q. And this is -- so by having observation of the 5 person's general appearance and behavior; in 6 other words, beyond the history you take, you 7 actually look at the person's affect and how 8 they present themselves; correct? 9 A. Well, there's -- there's a couple of different 10 screenings that go on. So there's the initial 11 intake by a booking officer, and then more of 12 this in-depth kind of screening that would be 13 done by the mental health or medical 14 professionals in our clinic. 15 Q. But received by all inmates; right? 16 A. Yes. 17 Q. So it's not a -- it isn't just for some? It's 18 for -- every inmate is supposed to get this by a 19 qualified mental healthcare professional or 20 someone who is mental health trained; right? 21 A. Yeah. So if we go back to -- (reviewing 22 exhibit). What part of this... 23 Q. So if paragraph 5, Point B says, "Observation 24 of: General appearance and behavior; evidence 25 of abuse and/or trauma; and current symptoms of</p>	<p style="text-align: right;">101</p> <p>1 institution? 2 A. Uh-huh. 3 Q. Yes? I know what you're saying, but -- 4 A. Yes, I understand. 5 Q. Okay. And then -- 6 (Exhibit 8 marked.) 7 BY MR. BENNETT: 8 Q. "Inmate Mental Health Care." That's a policy of 9 yours that was enacted March 6, 2017, and was in 10 effect at the time of Lynas' arrival and death 11 in the facility -- 12 A. Yes. 13 Q. -- correct? And this says (as read), "Sherburne 14 County contracted medical authority shall employ 15 a licensed mental health professional to provide 16 mental health services for inmates housed in the 17 facility"; correct? 18 A. Yes. 19 Q. And then you want (as read), "To ensure that 20 inmates have access to qualified individuals to 21 address mental health needs while in custody"? 22 A. Yes. 23 Q. And in your view, that would be comporting with 24 your constitutional duty to provide adequate 25 medical care to the inmates?</p>

<p style="text-align: right;">102</p> <p>1 A. We -- we contract that service through MEnD, and 2 they provide those individuals for -- for those 3 services. 4 Q. But this is your policy, not MEnD's policy? 5 A. For sure. But we're in collaboration with the 6 people that we contract with. 7 Q. And (as read), "Inmates who are referred as a 8 result of the mental health screening or by 9 staff referral, will receive a mental health 10 appraisal by a qualified mental health person 11 within 14 days of admission to the facility," in 12 accordance with this policy; correct? 13 A. Correct. 14 Q. And you expect this policy to be followed? 15 A. I do. In fact, that was the language I was 16 looking for when I was taking my time. 17 Q. It was just in another policy? 18 A. It was in a different policy. 19 Q. One is the screening and one is the treatment -- 20 A. Yeah. 21 Q. -- correct? 22 A. Correct. 23 Q. But these -- essentially, you're seeking to -- 24 to follow your constitutional duty to provide 25 the inmate adequate mental health care?</p>	<p style="text-align: right;">104</p> <p>1 to provide quality of care. 2 BY MR. BENNETT: 3 Q. But the Constitution doesn't deal necessarily 4 with non-state actors? You're the state actor 5 in the constitutional construct of this case; 6 correct? 7 MR. HIVELEY: Same objection. 8 THE WITNESS: I would -- I would agree 9 that we -- 10 BY MR. BENNETT: 11 Q. And I'm not trying to make it personal. I'm 12 just -- 13 A. It's not. 14 Q. -- it's just that it requires state action as 15 opposed to some private company? You know, 16 Exxon can't violate your civil rights, for 17 example? 18 A. We -- we contract with professionals that 19 provide that care. 20 Q. Okay. 21 A. We don't have people to do so ourself. 22 Q. At this time? That's a decision you made? 23 A. Right. 24 Q. Okay. 25 A. Yep.</p>
<p style="text-align: right;">103</p> <p>1 A. We are collaborating with the mental health 2 professionals to provide that quality of care, 3 yes. 4 Q. And you realize if they don't do it, it's still 5 your -- your issue? 6 MR. HIVELEY: I'll object. Calls for a 7 legal conclusion. 8 Answer if you know. 9 THE WITNESS: Excuse me? 10 MR. HIVELEY: I just made an objection, 11 that it's a legal conclusion. 12 THE WITNESS: Uh-huh. 13 MR. HIVELEY: So just answer if you know 14 how to answer the question that he asked. 15 THE WITNESS: Can you repeat the 16 question, please? 17 BY MR. BENNETT: 18 Q. You understand that if the person you hired to 19 fulfill this job doesn't do it, it's still your 20 liability? 21 MR. HIVELEY: Same objection. 22 THE WITNESS: The -- I think it's a 23 liability of all persons involved. 24 MR. BENNETT: Okay. 25 THE WITNESS: We all have an expectation</p>	<p style="text-align: right;">105</p> <p>1 MR. BENNETT: I don't have anything 2 further. 3 MS. NEARING: I have no questions. 4 MR. HIVELEY: No questions. 5 We'll read and sign. 6 You're done. Thank you. 7 THE WITNESS: Thank you. 8 VIDEOGRAPHER: We're going -- we're 9 going off the record. That will be the end of 10 Disc 2 and the conclusion of the deposition of 11 Sheriff Joel Brott. 12 The time is 11:26 a.m. 13 We're off the record. 14 (Concluded at 11:26 a.m.) 15 * * * 16 17 18 19 20 21 22 23 24 25</p>

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1 STATE OF MINNESOTA) 2 : ss CERTIFICATE 3 COUNTY OF WASHINGTON) 4 I, Janet D. Winberg, hereby certify that 5 I reported the video deposition of SHERIFF JOEL 6 L. BROTT on the 24th day of May, 2019, in 7 Elk River, Minnesota, and that the witness was, 8 by me, first duly sworn to tell the truth; 9 That the testimony was transcribed by me and is 10 a true record of the testimony of the witness; 11 12 That I am not a relative, or employee, or 13 attorney, or counsel of any of the parties; or a 14 relative or employee of such attorney or 15 counsel; 16 That I am not financially interested in the 17 action and have no contract with the parties, 18 attorneys or persons with an interest in the 19 action that affects or has a substantial 20 tendency to affect my impartiality; 21 That the right to read and sign the transcript 22 by the witness was reserved. 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 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